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European Federation  
of Building  
and Woodworkers



# ***Practical Guide for EWCs on Information and Consultation***



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## Contents

PART I - Introduction .....	7
Presentation of the project .....	7
Context and goals .....	7
Methodology .....	9
Information and consultation of EWCs .....	11
A view of the past: the genesis of EWCs .....	11
Some information concerning European Works Councils.....	13
PART II – Overview .....	16
Information derived from exchanges with worker representatives at EWCs in the EFBWW sectors ...	16
General assessment .....	16
Agreements and meetings .....	18
The information procedure .....	22
The consultation procedure .....	25
Transnationality and the issue of exceptional circumstances .....	28
Means and tools .....	31
Case study: the Lafarge-Holcim merger .....	36
(1) Presentation of the Lafarge-Holcim merger.....	36
(2) The information and consultation process regarding the planned merger between Lafarge and Holcim.....	38
(3) Lessons learned from the information/consultation process concerning the planned merger between Lafarge and Holcim.....	40
To conclude: issues, expectations and prospects .....	42
PART III – Thematic factsheets .....	45
Thematic factsheet 1 - Objectives and action plan .....	46
Thematic factsheet 2 - Information.....	49
Thematic factsheet 3 - Consultation .....	56

Thematic factsheet 4 - Transnational character .....	60
Thematic factsheet 5 - Restructuring .....	63
Thematic factsheet 6 - Mergers & acquisitions.....	66
Thematic factsheet 7 - Interaction between EWCs and national bodies .....	69
Thematic factsheet 8 - Interaction between members of the EWC .....	73
Thematic factsheet 9 - Training.....	76
Thematic factsheet 10 - Trade union coordinator .....	79
Thematic factsheet 11 - External expert .....	81
Thematic factsheet 12 - Relations with workers (communication) .....	83
Annexes .....	84
Bibliography.....	85

## PART I - Introduction

### *Presentation of the project*

#### Context and goals

In 2009, the Directive on European Works Councils (2009/38/EC) was revised with a view *“to improve the right to information and to consultation of employees”*. With this in mind, the European Works Council (EWC) was understood to be *“a council established [...] with the purpose of informing and consulting employees”*. This project has the same purpose and is intended to investigate the information and consultation practices of European Works Councils (EWC), the better to formalise them.

Indeed, it would appear from the experiences and initiatives of the European Federation of Building and Woodworking (EFBWW) that the **information and consultation processes of the transnational worker representation bodies** (i.e. the EWCs) **are not always able to meet the stated requirements**:

- ▶ The role allocated to EWCs on issues involving a minimum of two Member States (e.g. merger plans, agreement talks, reorganisation plans, etc.) is fairly restricted in the current practices of the construction and woodworking sectors.
- ▶ The interaction and complementarity between EWCs and the bodies representing workers in the Member States concerned are frequently dubious.
- ▶ Moreover, the recent economic and financial crisis has increased the need to anticipate and the necessity for information and consultation, especially in view of the restructuring performed by multinational construction groups. In this context, the EFBWW has taken several initiatives over the past years, including:
  - in 2009 and 2010, sectoral seminars on the subject of best practices in the area of transnational information, consultation, participation and negotiation in EWCs;
  - in 2013, further sectoral seminars with EWCs on the subject of “Anticipation of change and restructuring”.

These initiatives have shown that the practices of EWCs in the building and woodworking sectors remain very heterogeneous and that there is room for improvement. The implementation of information and consultation remains unsatisfactory and has not made any genuine headway over the past few years.

With this in mind, the EFBWW – via the project – wished to undertake the production of a **practical guide for EWCs on information and consultation**. The EFBWW intends to undertake a process which calls for the creation of a transnational social dialogue which can influence the strategic choices and

modes of deployment of enterprises. First of all, such a process should promote the establishment of transnational information, consultation and participation mechanisms based on the application of European Union legislation on worker involvement. Secondly, the purpose of this project is to encourage the exchange of information and good practices to create favourable conditions for the creation of national information, consultation and participation bodies based on the application of EU legislation on worker involvement. Moreover, on the basis of the latest European Commission communication on “Quality Framework for anticipation of change and restructuring”<sup>1</sup>, the EFBWW wishes to address the recommendations that the social partners explore and negotiate *“all possible options for avoiding redundancies: foster EU-wide coordination of trade unions to help EWCs; encourage EU-level negotiations in the event of transnational restructuring; conduct negotiations on professional transition policies”*.

This document is based on the project proceedings and includes **contextualisation of the information/consultation of EWCs as well as an analysis of the operation of EWCs in the building and woodworking sectors, as well as a case study on the place of the EWC at the time of the merger between Lafarge (France) and Holcim (Switzerland)**. This merger was announced in April 2014 and finalised in July 2015, and gave birth to the world’s largest cement, concrete and granulate manufacturer. In the practical case study, we shall be focusing on the merger plan and the support provided by the EFBWW to the information and consultation processes of the respective transnational bodies.

Ultimately, **this practical guide for EWCs on information and consultation is intended to become a reference text** for:

- ▶ European Works Councils (EWCs) as an information base and reference document;
- ▶ the EFBWW and its network of trainers and trade union coordinators;
- ▶ Special Negotiating Bodies (SNBs) during the negotiation or renewal of new European councils.

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<sup>1</sup> COM (2013) 882 final.



## Methodology

The purpose of the **project** is to emphasise the right of worker representatives to information and consultation so that points of view can be exchanged across borders and commitments made with a view to negotiation.

For this purpose, the **EFBWW and its Steering Committee** have decided to use the services of **SECAFI** to support them during the implementation of the project. Intervention by an external expert is based on the principle of cooperative project design and steering in such a manner that all players are closely associated. In consequence, the choice of methodology and implementation has been performed in close cooperation with the Steering Committee throughout the project.

### Key project phases

#### Phase 1

A documentary analysis enabled the issues faced by the sectors and the key elements of EWC practices to be established. In particular, this analysis was based on preliminary work by the EFBWW. All information was used as a basis for the various discussions included in the project.

A questionnaire validated by the Steering Committee was then sent to members of EWCs identified by the EFBWW. The purpose of this questionnaire was to collect data in order to analyse the dynamics of social dialogue and initiate discussion of practices. Complementary phone interviews then took place with some of the respondents.

#### Phase 2

In June 2015, the first results of the questionnaire were presented at two sectoral seminars and the information and consultation practices of the members were discussed in greater depth. These seminars provided privileged opportunities to discuss practices in terms of industrial action and social dialogue, and also to validate and enrich the practical guide.

#### Phase 3

A first presentation of the guide before the EFBWW congress in Warsaw (Poland) on 25 November 2015 led to the validation of both its form and contents.

#### Phase 4

The project will be finalised by training and guide-appropriation seminars during the first half of 2016. Together with the project steering committee, these seminars will focus on the appropriation, exchange and enrichment of the guide as a tool.

## Characteristics of the questionnaire

The questionnaire was drawn up in cooperation with the project steering committee to identify and assess the practices, understanding and expectations of the elected members of EWCs in the EFBWW sectors. By answering the 99 questions, the respondents **supplied key information concerning their EWCs, gave opinions based on their experiences and clarified the implementation of the EWC agreements and European directives.** For this purpose, the questionnaire was sent out in six languages and a sample of complementary interviews was taken.

A total of **eight subjects** were covered: the operation of EWCs; meetings; the information procedure; the consultation procedure; extraordinary meetings; transnationality; EWC resources and tools; and expectations. The **respondent panel** accurately reflected the presence of EWC members in the various EFBWW sectors (see illustrations below).

Figure: overview of respondents by sector of activity

Responses to questionnaire / sector	Number of EWCs	Number of EWC members
Wood, furniture, forestry	4	5
Cement	5	12
Building materials	6	11
Construction	8	12
Total	23	40

Complementary interviews / sector	Number of EWCs	Number of EWC members
Wood, furniture, forestry	1	1
Cement	4	6
Building materials	4	7
Construction	4	6
Total	13	20

Figure: overview of questionnaire respondents by Member State



## Information and consultation of EWCs

### A view of the past: the genesis of EWCs

European Works Councils (EWCs) or European Group Committees (EGCs) have been in existence for over twenty years.

As the internationalisation of exchanges gained momentum, the business world has become increasingly international since the 1980s. Many national enterprises acquired a European and even global dimension, while enterprises from other continents were setting up in Europe. This internationalisation process generated questions and responses from the various political, economic and social players of the time, especially concerning the relevance of social dialogue, which at the time was strictly national and the cultures, rules and practices of which varied a great deal from one country to the next.

With a view to preserving a European model of social culture and enabling it to adapt to the new configuration, a number of companies, the EU bodies and most Member States endeavoured to provide a solution for adapting social dialogue to transnational developments. As early as 1985, social players in several groups (e.g. Bull, Thomson and BSN) had set up the first European councils. The **European Community and the various governments decided to adopt a European directive<sup>2</sup> in response to the Europeanisation and globalisation of economies and enterprises.**

On 22 September 1994, **European Directive 94/95/EC on the “Information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings”** was passed at the initiative of the then President of the European Commission, Mr Jacques Delors, and came into force on 22 September 1996.

To be included in the area of application of the Directive, the undertaking or group of undertakings must employ, whatever the nationality (EU or non-EU) of the parent company:

- ▶ at least 1,000 persons in the Member States;
- ▶ at least 150 persons in each of at least two Member States.

One of the innovations of this Directive is that it bases its implementation on negotiation at company level. This is the first ever European directive which relies for its implementation **on active intervention by the social partners and on their role as parties to negotiation.** Over the following years, many EWCs were set up in many sectors throughout Europe, including the building and woodworking sector.

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<sup>2</sup> The Directive is one of the legal instruments with which the European institutions create European law. They are established by the Council further to a proposal by the Commission and (generally) by joint decision with the European Parliament. Directives are binding as regards their intentions, provisions and conditions; however, their implementation (transposition) is left to the national authorities of the Member States.

Later, the initial European Directive of 1994 was extended to the United Kingdom by means of another directive (97/74/EC), then adapted by a third directive (2006/109/EC) further to the entry of Bulgaria and Romania. Major research and assessment of the operation of EWCs was initiated by the Commission in 2008. With the support of the European social partners, this assessment of EWC practices and the inadequacies of the 1994 Directive led to the **rewriting of the original text**. Fifteen years after the first text, this revision led to **substantial improvements on the previous directive and the writing of a new text (2009/38/CE)**, which was adopted on 16 May 2009 and came into force on 6 June 2011.

This recast Directive removes a number of inadequacies and improves the operation of EWCs as transnational bodies, with a view to increasing the number of EWCs and instituting provisions concerning the effectiveness of the right to information and consultation. In particular, the new text stipulates:

- ▶ changes to the rules for the formation and operation of the Special Negotiating Body (SNB) for the agreement;
- ▶ more stringent provisions concerning information and consultation. The new text advises an approach characterised by a genuine obligation of providing means;
- ▶ that SNBs and EWCs may resort to experts, which gives EWCs additional leverage;
- ▶ the right to training without loss of pay for members of SNBs and EWCs;
- ▶ A wider definition of transnational issues, in which the “the potential effect of a decision” is taken into account;
- ▶ additional provisions regarding the structuring of information and consultation levels, changes to the structure of the enterprise and amendments to the agreements;
- ▶ acknowledgement of the role of trade unions.

Since the recast Directive came into force on 6 June 2011, all new EWCs have been set up according to the new text. The application of the new provisions to EWC agreements based on the former Directive requires that agreements be renegotiated. However, according to data from the European Trade Union Institute (ETUI), **only 47% of the agreements reached prior to the new Directive have been renegotiated**.

It should therefore be noted that at the time of writing there are differences between various EWC types (see hereunder). According to the latest report published by the European Trade Union Institute (ETUI), **only 49% of current EWCs are regulated by the provisions of the recast Directive**<sup>3</sup>.

<sup>3</sup> Stan de Spiegelaere & Romuald Jagodzinski, *European Works councils and SE works councils in 2015. Facts & figures*. ETUI, 2015. Pages 11 to 15.

The Commission plans to perform an assessment of the implementation of the 2009 Directive by **June 2016**. Within this framework, **the text may be changed again**. In the meantime, the European Trade Union Institute (ETUI) has recently published a report on the current state of the implementation of the recast Directive<sup>4</sup>. This analysis shows that the **quality of national transpositions varies greatly** within the European Union (EU). As far as transnational information, consultation and competency are concerned, the author specifies that **the quality of implementation also remains unclear**. The heterogeneous quality of national definitions may compromise the quality of the implementation of the competencies and rights specific to EWCs. For instance, the following Member States have a wider definition of information and consultation: Czech Republic, Estonia, Germany, Lithuania, and Slovakia. The following Member States refer to the effectiveness of the right to information and consultation: Belgium, Cyprus, Croatia, Czech Republic, Greece, Hungary, Ireland, Italy, Latvia, Malta, Norway, Romania, Slovakia, Spain, Sweden, and Liechtenstein.

*The European Trade Union Institute (ETUI) uses three EWC classifications:*

- ▶ *Article 6 EWCs (EWCs regulated by the provisions of the 1994 Directive and the recast Directive of 2009)*
- ▶ *Pre-Directive EWCs (EWCs partly regulated by these Directives)*
- ▶ *and Societas Europaea EWCs (with a European legal status and specific provisions concerning worker representation)*

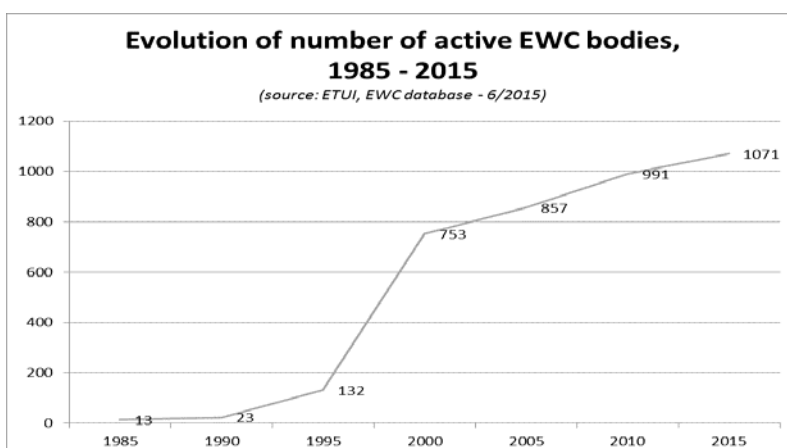
*Concerning the latter classification, may we draw your attention to the fact that SE Works Councils – despite their differing characteristics – are rather similar to EWCs as regards their mode of operation. Many SE Works Councils (41%) now operate in the services sector (source: ETUI, 2015).*

<sup>4</sup> Romuald Jagodzinski, *Variations on a theme. The implementation of the EWC Recast Directive*. ETUI, 2015.

## Some information concerning European Works Councils

### Number

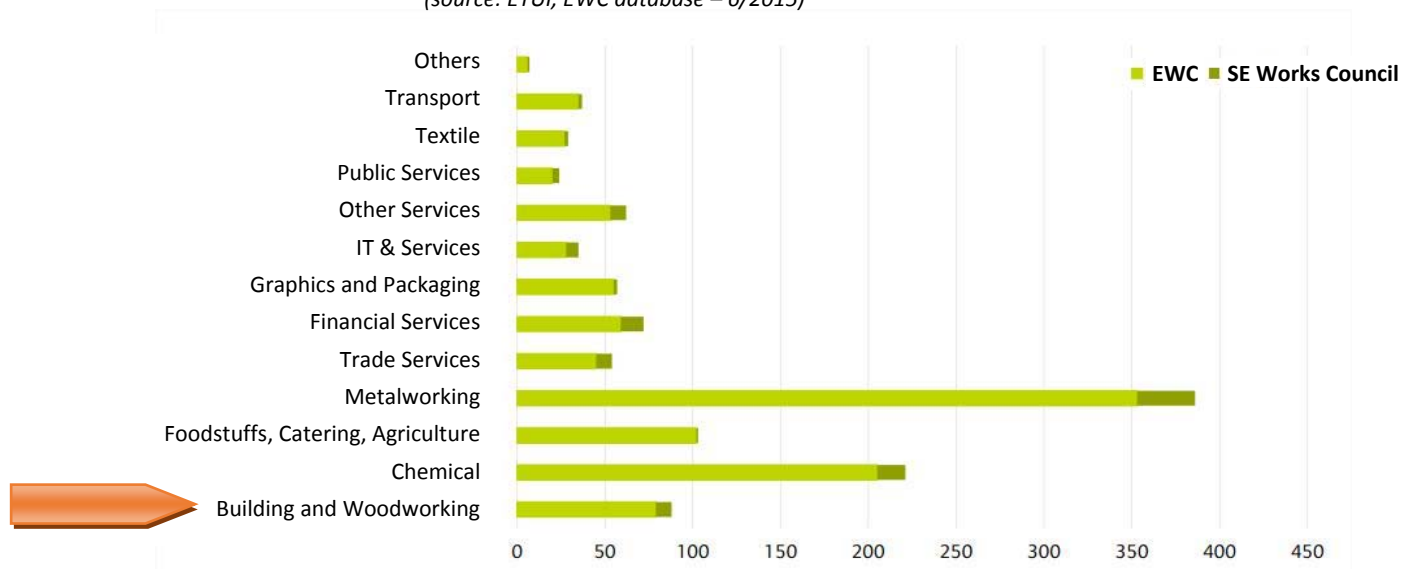
To date, **1,071 EWC-type bodies** have been identified by the European Trade Union Institute (ETUI). Over the years, the growth trend for such bodies has been positive; approximately 25 new EWCs are created each year. Moreover, most current EWC bodies cover either large enterprises with over 10,000 workers in the EEA or small enterprises with fewer than 5,000 workers throughout the EEA.<sup>5</sup>



Concerning the number of EWCs per **activity sector** (see figure hereunder), the building and woodworking sectors are among the best supplied, with 79 EWC-type bodies in operation.

### EWCs in operation, 2015, by activity sector

(source: ETUI, EWC database – 6/2015)



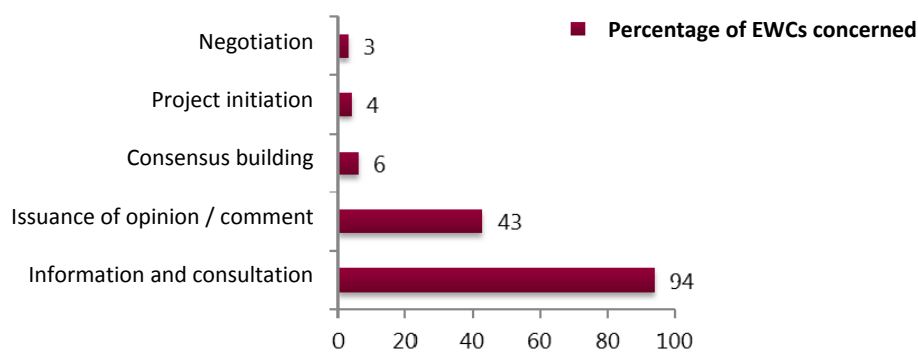
<sup>5</sup> More specifically, the ETUI has identified 357 EWCs operating in large companies (over 10,000 workers in the EEA) and 359 EWCs in small companies (fewer than 5,000 workers in the EEA). Source: EWC database, 6/2015.

## Rights and entitlements

The **right to information and consultation** is a determining characteristic of EWCs. According to ETUI data, 94% of EWCs are explicitly entitled to be informed and consulted concerning transnational issues. In 43% of cases, this right has been extended and includes the ability to give opinions and comments. Two-thirds of all EWCs are entitled to paid experts; in 14% of cases, a budget is set. As shown by the following figure, EWCs may have further rights; however, this remains exceptional.

### Procedural competencies given to EWC

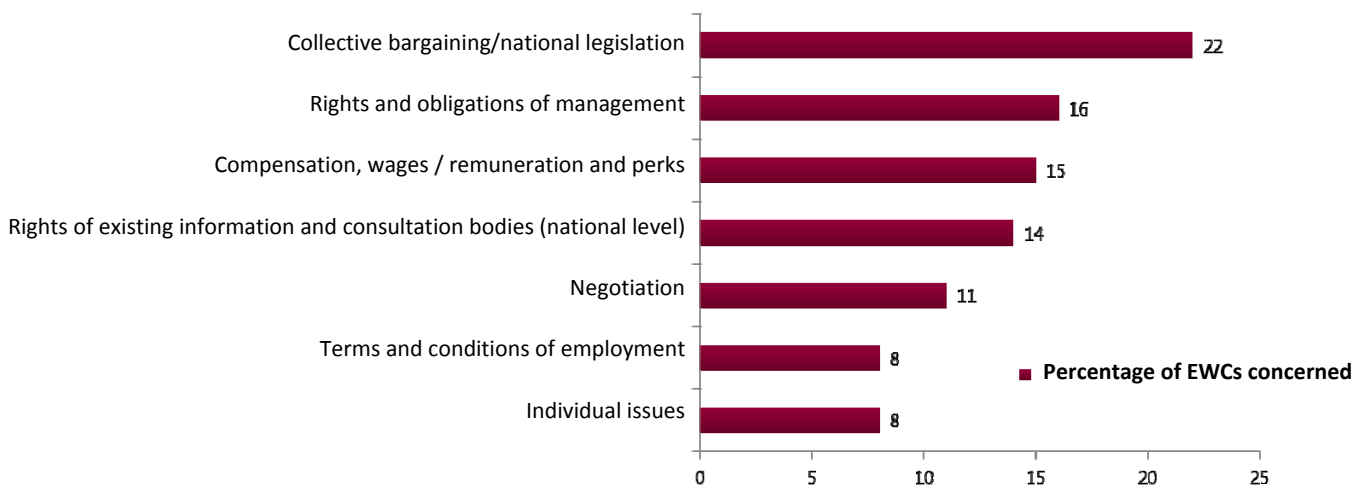
(source: ETUI, EWCs and SE WCs in 2015)



However, some **rights may be explicitly excluded** at EWC level:

### Competencies explicitly not given to EWCs

(source: ETUI, EWCs and SE WCs in 2015)



## PART II – Overview

The purpose of the **project** is to investigate the practices relating to the information and consultation of the European Works Council (EWC), the better to formalise them. This report is intended to supply not only an overview of the information and consultation of European Works Councils, but also recommendations and tools to improve existing practices. **The aim of this section is to supply an analysis of existing processes and practices in the sectors represented by the EFBWW.**

For this purpose, we have based our work on:

- ▶ the results of a questionnaire sent to worker representatives at European Works Councils, as well as the sectoral seminars organised according to the responses received;
- ▶ the case study of the Lafarge-Holcim merger;
- ▶ the work performed by recognised bodies such as the European Trade Union Institute (ETUI) and the European Foundation for the Improvement of Living and Working Conditions (Eurofound).

### *Information derived from exchanges with worker representatives at EWCs in the EFBWW sectors*

In this section, we present the key information identified via the questionnaire, the complementary interviews and the sectoral seminars. The complementarity of the exchanges and the rate of response (see Part I) mean that we can say that **the results obtained may be considered to be representative** of the EWC members from the EFBWW sectors. The diversity of the mandates of the respondent EWC members confirms the representativeness of the results, as the respondents include EWC chairs and secretaries, select-committee members, EWC members with no specific function and deputy members.

### General assessment

For several years, the European Trade Union Confederation (ETUC) has been *“reiterating its call for a strengthening of the information and consultation procedures”*<sup>6</sup>. In the course of its latest congress in 2015, the ETUC also stated that *“Trade union presence and action in multinational companies and their supply chains should be reinforced [...]. The role of EWCs has to be recognised and strengthened, while better integrating them within trade union life.”*<sup>7</sup>

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<sup>6</sup> Viz. the ETUC Resolution adopted at the Executive Committee meeting of 22 and 23 October 2013: “Strengthening information, consultation and participation rights for all workers”.

<sup>7</sup> Excerpt from “The role of the ETUC for the next mandate 2015-2019”, a document adopted at the 13th ETUC Congress on 2 October 2015.



Via this project, the EFBWW wishes to respond to this call at its specific level. Moreover, as well as political considerations, **a better match between the actual and desired operation of EWCs is also expected by worker representatives** at the EWCs in the EFBWW sectors. Almost 54% of respondents to the questionnaire believe the operation of their EWC is satisfactory when compared with their expectations. Although 15% of respondents deemed this operation to be “unsatisfactory”, 31% were of the opinion that the general operation of their EWC met their expectations (see figure on the right). **In other words, these results show that in 69% of cases the operation of the EWC requires improvement.**

In a 2009 study<sup>8</sup>, Eurofound concluded that **“the main factors influencing the practical functioning of EWCs include:**

- ▶ *the business strategy and structures of companies (whether or not the company’s products and services are diversified across borders and the extent to which operations are internationally integrated and there is competition for investment between sites);*
- ▶ *industrial relations practices and traditions in the home country and company-specific industrial relations considerations, including structures and forms of worker representation and participation;*
- ▶ *the resources available to the EWC;*
- ▶ *the degree of cohesion of the worker side. Cohesion is impeded by prioritisation of local interests by representatives, differences of perception between ‘home’ country and ‘foreign subsidiary’ representatives and practical considerations of communication, language, and infrequency of contact.”*

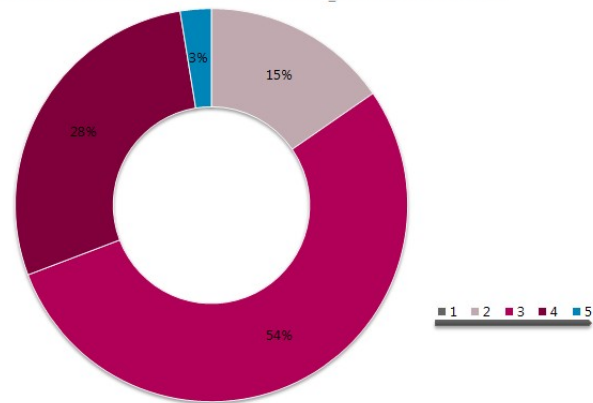
By comparing the answers to the questions addressing the satisfactory and less satisfactory aspects of EWC operation, most of the main factors listed above **are to be found in the five main areas identified as being important to the assessment of EWCs by worker representatives:**

- ▶ Agreements and meetings
- ▶ The information procedure
- ▶ The consultation procedure
- ▶ Transnationality and the issue of exceptional circumstances
- ▶ Resources and tools

We shall be using this thematic classification to discuss the results of the survey.

<sup>8</sup> Eurofound. *European Works Councils in Practice: Key Research Findings*. Background paper, 2009.

**Assessment of general operation of EWC**



## Agreements and meetings

With regard to EWC agreements, **most respondents stated that their agreement was based on the 2009 Directive** (the recast Directive). Out of the 19 EWCs concerning which at least one response was received, only two were not regulated by the 2009 Directive. In another case, although the EWC agreement included the provisions of the 2009 Directive, it remained an “Article 13” agreement<sup>9</sup>. Moreover, at least 14 out of the 19 EWC agreements had been created or renegotiated since 2009. In consequence, the stipulations of the recast Directive (including in particular the clarification concerning the rights to information and consultation) apply to most of the respondents’ EWCs<sup>10</sup>.

Concerning the **implementing legislation of the EWC agreement**, the responses illustrate the differences between EWCs in this respect. For instance, agreements may be based on the French, Swedish, German, British, Italian, Belgian, Dutch or Austrian transpositions. Moreover, a number of members who responded to the questionnaire did not know the implementing legislation for their agreement and in two cases members of the EWC cited different implementing legislation. Nevertheless, it may be important to take an interest in the national legislation under which the agreement is implemented. National legislation, especially on the manner in which national bodies and the EWC interact, may vary from one country to the next and generate heterogeneous practices among EWCs. In a 2015 study, Eurofound identifies four types of national systems relating to information/consultation between the geographic levels of the bodies (viz. thematic factsheet on the organisation of the bodies).

The same diversity applies to the **number of EWC members** specified in the respondents’ agreements, which may vary from 7 to 33 members, with considerable differences in terms of the number of countries represented. In some cases, it is difficult to supply an accurate number as the agreement may consider experts and co-opted members as members, as well as deputy members. Moreover, during the complementary interviews, the representatives emphasised the variability of the number of members from one year to the next due to changes in the enterprise’s structure (e.g. due to a sale or acquisition). Others mentioned the problem caused by the repeated absence of certain members.

As to the **meetings**, we shall be drawing a distinction between ordinary meetings, select-committee meetings and special-commission meetings.

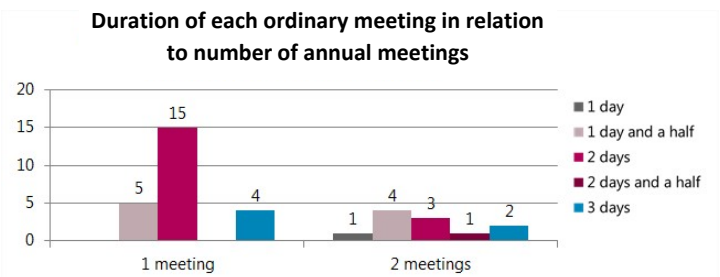
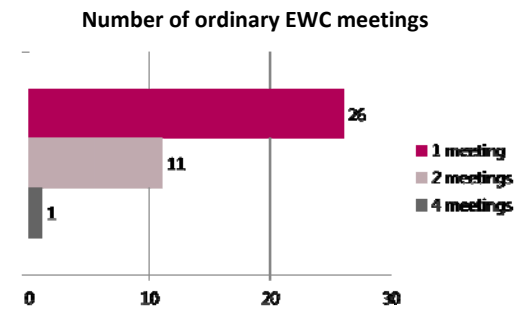
▶ As far as the **ordinary meetings are concerned**, most respondents stated that one annual ordinary meeting of the EWC is scheduled.

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<sup>9</sup> A distinction is made according to the type of negotiation on which the EWC agreement is based: pre-Directive agreement (“Article 13”) or implementation agreement (“Article 6”).

<sup>10</sup> “Furthermore, the core competences and *raison d’être* of EWCs, information and consultation, are addressed and amended by the new directive. [...] Most importantly, however, the definitions have been changed. With regard to information, the stress is laid, on the one hand, on its comprehensiveness and quality, enabling employee representatives appropriate scope for examination, and, on the other, on the timing (proposed measures, i.e. not decisions already taken) and the means of allowing for preparation for consultations. The definition of consultation has been supplemented by the entitlement for employee representatives to present opinions to management.” Romuald Jagodzinski, *Review, revision or recast? A quest for an amended EWC directive*. ETUI, 2008.

The number of meeting days per year in ordinary sessions (including preparatory meetings and debriefings, not including training) is also fairly limited. For instance, as far as most of the members are concerned, the ordinary meetings take the form of a single annual meeting lasting one or two days. Despite these figures, only a small majority of the respondents consider the number of ordinary meetings to be inadequate (12 to 14). However, most members with a minimum of two meetings per year considered the number of meetings to be satisfactory. This raises the issue of the representatives' expectations in terms of meeting frequency: is one annual ordinary meeting enough to discuss the desired subjects and completely fulfil the role of the EWC?

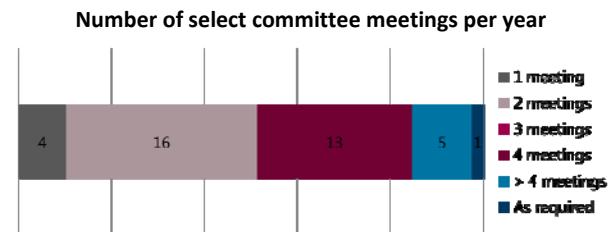


The agenda of these meetings is jointly determined with the management. However, the fact that the management may not veto the issues on the agenda is a source of satisfaction to most of the respondents.

In connection with the ordinary meetings, 31 out of 36 respondents mentioned the existence of a preparatory meeting and/or a debriefing meeting of representatives. The preparatory meeting may last between one hour and one day; in most cases, it lasts at least half a day. The debriefing meeting is shorter than the preparatory meeting and generally lasts at most half a day. During the complementary interviews, criticisms were mainly levelled at two aspects: the shortness of debriefing meetings and the perceived lack of preparation by EWC members, leading to a short preparation time with the management.

- ▶ With a single exception, all EWCs concerning which a response was supplied comprised a select committee, the number of members of which varied between 3 and 6. The EWC agreement sometimes specifies that the trade union coordinator or a secretary is included in the select committee. Moreover, the agreement may stipulate that memberships be distributed by geographical area. All respondents mentioned the existence of **specific select-committee meetings**.

The number of select-committee meetings is far greater than the number of EWC meetings. It should also be noted that several respondents stated that more meetings could be held according to necessity or current events. The select committee's role is strengthened by the fact that it is – in the great majority of cases – in charge of defining the agenda (with the management or on its own). Moreover, the respondents approved of these meetings: 22 considered them to be satisfactory and 2 unsatisfactory. One respondent noted that a meeting of the select committee took place after the company's board meeting.



- ▶ Many EWCs include one or more **special commissions**. Thirteen EWC respondents mentioned that their EWC comprised at least one special commission and some mentioned the existence of up to three commissions. In one case, the representatives set up a special committee without this being required by their EWC agreement. Only five respondents with an agreement specifying the possibility of forming a special commission had not availed themselves of this right and had no such commission.

The number of special commissions may change: they are formed according to the members' requirements or in the wake of exceptional events (e.g. a merger). As far as the issues addressed by the commission are concerned, most of them deal with occupational health and safety. Other issues identified include working conditions, wages and salaries, corporate social responsibility and diversity.

The agreement may specify a fixed number of meetings per year, usually two or three according to the responses received. The commissions comprise EWC representatives who may be assisted by internal and/or external experts. For instance, in the case of one EWC, issues are analysed in a European and international perspective and are intended to enable a global framework agreement to be reached.



## Improvement prospects

To conclude the section on agreements and meetings on a positive note, most respondents declared themselves satisfied with the number of ordinary meetings due to the fact that the management did not have the ability to veto the issues on the agenda (even when the agenda was jointly determined). Being able to **meet with the management and discuss issues directly with them** gave genuine added value to the EWC. Nevertheless, building a relationship of trust between the management and EWC representatives remained difficult (despite the fact that the quality of this relationship largely determines the smooth operation of the EWC). The EWC staff representatives interviewed thus stated that meetings were sometimes **overdetermined by the wishes and goals of the management**.

For instance, it emerged that **the time allocated to preparatory and debriefing meetings was considered to be too short**. Practices in the area of preparatory and/or debriefing meetings therefore required facilitation.

To encourage **the internal cohesion of EWCs**, a number of proposals were made by the participants in the study. For instance:

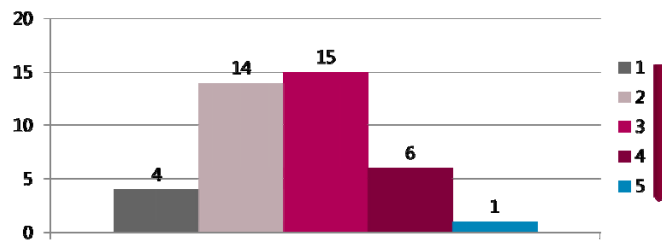
- More communication and feedback from EWC members between meetings.
- Improved coordination between the unions present at the various levels (local, national, European and international).
- Assistance with unionisation in countries where there were no staff-representation bodies.
- Better knowledge and recognition of the EWC's work between the members.

Moreover, the importance of a good EWC agreement was emphasised by the interviewees; however, the **lack of recourse** (especially legal) remained an issue in its own right. One commonly raised issue in most exchanges was the **lack of compliance** by managements with the provisions of the EWC agreements and the Directive. Similarly, the interviewees mentioned that the EWC's role was not taken into account by managements, in particular in decision-making processes.

## The information procedure

Most respondents gave decidedly mixed responses concerning the information procedure within their EWC. **On average, the representatives' experience of the EWC information procedure was below expectations.** The assessment mark awarded by the respondents on this subject was barely average: 2.7 out of 5.

Assessment of EWC information procedure compared with representative expectations



The factors affecting the information procedure fall into two major categories:

- ▶ The first of these is the **manner in which the information is supplied** by central management. Thus, **in the case of 60% of the respondents, information was not supplied within an appropriate time frame.** The issue of time (and hence of timeliness) was a major drawback. For instance, representatives wish to be informed before any other party (especially the press). Feedback showed that it was difficult to obtain general information concerning the company, especially precise information, and that it was supplied too late, was inadequate and did not provide a genuine overview of the company. The information supplied between meetings (including the select-committee meetings) was also inadequate. It is worth noting that the greatest issue mentioned during exchanges with the representatives was the lack of timely information.

**Paradoxically,** although information was not received in a timely manner, most respondents felt they had enough time to analyse the information received prior to the meeting (see figure to the right).

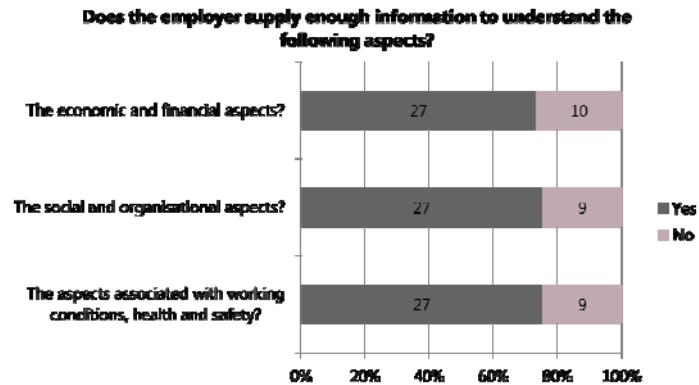
Do you have enough time to analyse documents prior to meetings?



Moreover, there has been some progress in the manner in which information is obtained, as well as the content of the information. An analysis of the exchanges with the EWC representatives showed a need for more **explanations** from the management and for **more detailed, in-depth and complete** information. Most respondents stated that they received a report (or documents) prior to the EWC meetings.

Managements should also ensure that the information supplied is **intelligible** and available in all the **languages** of the EWC members. One positive aspect was that the great majority of respondents stated that they received a report (or documents) prior to the EWC meetings. Moreover, these documents were available in all languages.

▶ The second major category includes the **issues concerning which representatives wish to be informed**. The representatives expect information concerning the group as a whole in its following aspects: economic and financial issues, social and organisational issues, as well as health, safety and working conditions. In general, the respondents felt that the information they were given enabled them to adequately understand these issues. The issues most often mentioned in the responses were strategies, organisation, results, payrolls and social policies (see figure to the right).

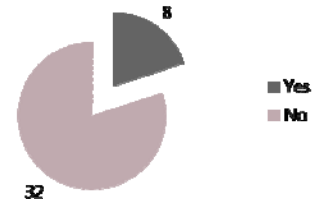


However, the questionnaire results also showed that **the information received did not make it possible to anticipate changes within the enterprise**. Also, in a great majority of cases, the information supplied did not make it possible to assess the impact of decisions on staff (see figure to the right).

**The information supplied by the employer makes it possible to anticipate changes to the company**



**The information supplied by the employer makes it possible to assess the impact of decisions on workers**



The respondents thus emphasised that they should be better informed of **exceptional events (e.g. sales, closures, etc.)**. Although the members expected **transnational** information from the management, the responses made it clear that there was a demand for more information concerning **the implementation of strategies in the various countries**. As well as a better understanding of the past year (in the case of the annual meetings), members wanted more information concerning the company's **prospects**, as well as a definition of the **company strategies**. This would enable them to better understand how the management **intended to apply them in practice in the various countries, as well as their impact on the staff**. The current mode of operation makes it difficult for representatives to appreciate the group's prospects and be in a position to anticipate events. Moreover, **the presence of an expert** was considered to be an important means of understanding the information supplied.





## Improvement prospects

To conclude the section on the information procedure on a positive note, most respondents felt that **there was room for improvement as far as the implementation of the EWC information procedure was concerned**. It is remarkable that one major problem is that the members of the EWCs are not informed at the right time. Moreover, the content of the information may also be below expectations. Whereas a majority of EWC members stated that they were able to understand the company's situation using the information supplied by the management, they acknowledged that it was **difficult to anticipate further developments**.

Our exchanges throughout the study identified a number of **satisfactory practices** in connection with the information phase:

- Reception of general information concerning the enterprise's situation
- Supply of documents prior to the meeting
- The possibility of meeting with the central management at the appropriate time
- Exchanges between EWC members, especially during coordination meetings
- The possibility of contacting the company CEO (e.g. phone conference) via the secretary or the members of the select committee
- Reports of meetings and supply on the Intranet

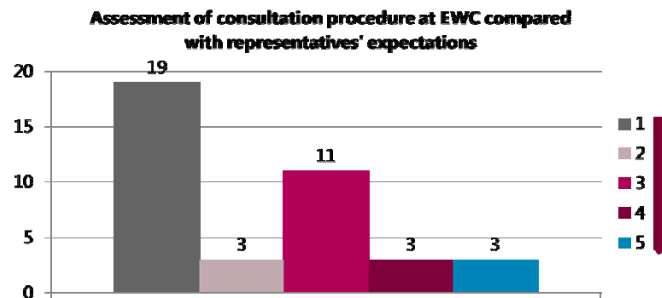
The EWC members also mentioned a number of aspects **which required improvement**. For instance:

- Timely information not easily obtained; too many decisions were made prior to involving the EWC; preparatory documents needed to be supplied well in advance; information obtained via the press.
- The management supplies information at its discretion without taking into account the requirements of the EWC members (e.g. too much content relating to economic issues and not enough concerning the human aspect or the enterprise's prospects). For instance, employment is a fundamental issue for the EWC members in its manifold aspects (e.g. transfer of staff from one site to another, impact of strategies on employment). The chief difficulty in this connection was the lack of information concerning the impact of the strategies implemented. Moreover, concerning information on workplace health and safety and working conditions, the members emphasised that often their management supplied them with copious safety information but tended to skate over health issues.
- The information characteristics (inaccurate, too general and nonspecific).
- Lack of (or inadequate) information between meetings, especially for the members of the select committee.
- The use of the confidentiality clause by the management.
- The EWC members' ability to understand and analyse the economic and financial information. Several respondents emphasised their feeling that the management used over-technical language or that they were flooded with information from which they could not extract relevant and useful information in their capacity as staff representatives. This may help to explain the paradoxical situation: although members were satisfied with their understanding of the enterprise's situation, they remained unable to anticipate developments and discern the impact of decisions on the staff.



## The consultation procedure

Most respondents had decidedly mixed feelings concerning the consultation procedure at their EWC. **Generally speaking, the perception of the EWC consultation procedure was, if anything, negative.** The assessment mark awarded by the respondents concerning this issue was 2.28 out of 5. Almost half the respondents felt that there was almost no consultation within their EWC. In consequence, the consultation procedure was **the least satisfactory aspect of the operation of EWCs** according to the participants in the study.

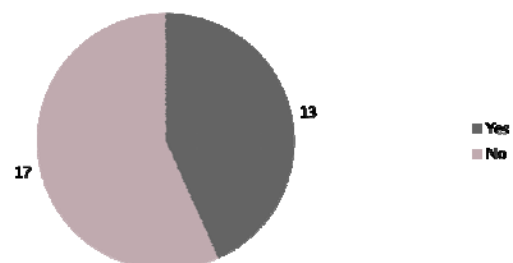


► Nevertheless, **a number of satisfactory aspects** were identified in the feedback from the EWC representatives:

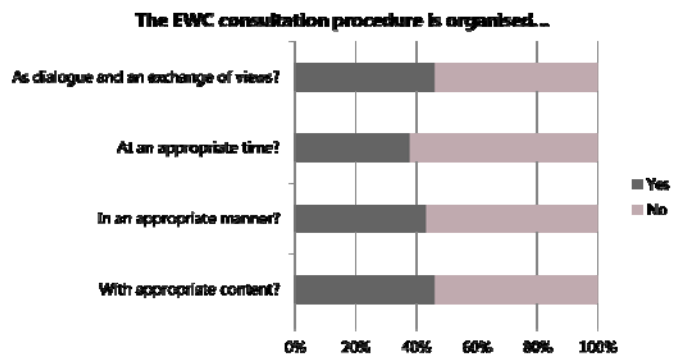
- The possibility of talking and exchanging views with central management, asking questions and giving opinions based on the answers
- The possibilities afforded by the procedures in the case of exceptional events (e.g. mergers, acquisitions)
- The presence of one or more experts to support the EWC representatives
- Regular meetings with the HR manager
- The adoption of an agreement concerning the methods used at the various stages of consultation

► Concerning expectations regarding consultation, the responses emphasised **the EWC members' wish to be considered by the management as important partners** in the definition of strategies and decision-making in the various countries. However, most respondents (see figure below) felt **the management did not take the EWC representatives' opinion into account when making decisions**. The EWC members were dissatisfied with their pervasive feeling that decisions were made in advance (despite the consultation) and/or that there was no consultation whatsoever (especially on the occasion of the ordinary meetings or when certain changes were made to the company). For instance, they believe that the central management cuts short the information and consultation phases. Also, management can use the confidentiality argument to justify withholding certain pieces of information.

**In general, do you feel that the management takes your opinion into account when making decisions?**



- ▶ The organisation of the EWC consultation procedure **does not meet the expectations of the EWC representatives** (see table to the right). What they expect is a question-and-answer phase with the management during which precise and clear information is supplied to the EWC members.



Concerning the **issues** presented

for consultation, the worker representatives primarily wished to discuss operations which might change the structure of a group and all decisions which might affect the staff (e.g. reorganisations, health and safety, human-resources policies and major investments). Some respondents also mentioned a wish to point out specific problems to the management and contribute concrete solutions.

- ▶ Moreover, some respondents emphasised the issue of **preparing an opinion** concerning the projects supplied by the management. Most EWC member respondents stated that they had already supplied such opinions to their management. Such opinions often took the form of comments rather than counter-proposals. Many members mentioned that comments were made verbally during meetings, supplementary meetings, or meetings of the select committee (possibly as part of a discussion with the management or via a statement).

One good practice is to include the EWC members' position in the minutes or report of the meeting. This makes it possible to inform the company's workers of the EWC members' position during the EWC meetings.

Concerning the issue of whether or not they had enough time to think and set down this opinion, most respondents stated that they did (although a minority stated the opposite). Moreover, many of the EWC members stated that they had received **support** during the consultation phase. Most often, such support was provided by the trade union coordinator; however, external experts and national trade unions were also mentioned.

Almost half the respondents stated that the opinion of their EWC **did not receive any kind of response with statement of reasons from the management**. Management feedback may take several forms. It is usually supplied verbally during talks or in writing further to the talks. A number of EWC members specified that the select committee was given the feedback during a supplementary meeting.



## Improvement prospects

**The great majority of EWC worker representatives expect improvements to be made to the consultation phase.** This would in particular make it possible to help the management make better decisions and exercise influence at the EWC concerning the consequences of the decisions to be made.

The EWC members interviewed had many **ideas for the improvement of the consultation phase.** For instance:

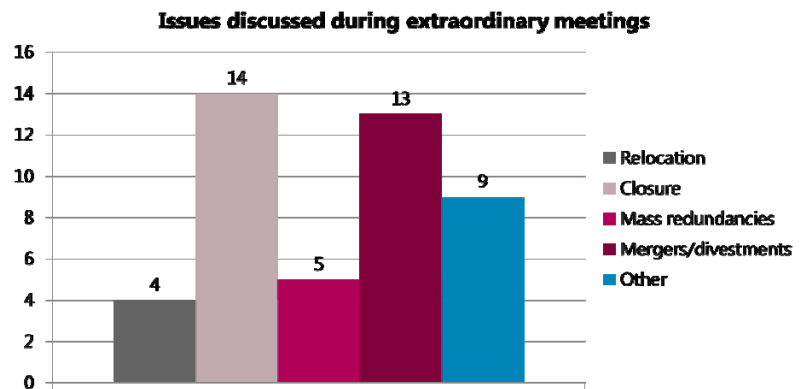
- Issue protests when the management does not consult the EWC.
- Improve the preparation of the consultation phase: use a common language for communication, ensure the proper organisation of the information and consultation phase in a timely manner, the greater involvement of members in the preparation, display more initiative (instead of waiting until the management makes its own requests) and determine the issues concerning which consultation is required (in particular, concentrate on the actual decisions).
- Take enough time during the consultation phase: organise a debriefing meeting and a supplementary meeting for the purpose of consultation, design counter-proposals further to a question-and-answer phase.
- Request that the central management supply the reasons for its response to the EWC.
- Consult with each other and with the central management to draw up rules for the consultation phase, which may lead to the amendment of the EWC agreement.
- Change the legal framework, for instance to be able to cause a project to fail further to the expression of an unfavourable opinion by the staff or increase participation rights. Concerning this issue, few proposals were made for changes to the Directive. However, the EWC staff representatives insist more heavily on the fact that the central management should begin by complying with the provisions of the EWC agreement and the Directive.

## Transnationality and the issue of exceptional circumstances

### Exceptional circumstances

**Extraordinary meetings** concerning exceptional circumstances are a major component of the life of a EWC. Most of the EWC members encountered in the course of this study had taken part in such a meeting in their capacity as members of a transnational representative body.

- Our study showed that extraordinary meetings were more often organised at the initiative of the staff representative than of the employer. The **issues** on the agenda of extraordinary meetings most often concerned the company's structure and shareholders. The figure below shows the prevalence of issues such as closures or mergers/transfers. The "Other" category includes strategies, reorganisation, the renegotiation of the EWC agreement, the purchase of another company and changes to the company's shareholders.



Closer analysis of the answers reveals the **connection between the issues raised and the party making the request** (employer or worker representatives). The employer is more likely to request an extraordinary meeting in the case of events which affect the company structure (in particular mergers/transfers); whereas worker representatives tend more to initiate extraordinary meetings when events have a social impact, e.g. collective redundancy or closures.

- Many EWC member respondents **gave an opinion** in the course of procedures under exceptional circumstances. There is a fairly clear link between requests for extraordinary meetings by the management and the lack of opinions on the part of the worker representatives. This lack of an opinion can be explained by the fact that the extraordinary meeting takes place after the decision has been made (especially in the event of a merger/transfer).



### Improvement prospects

To conclude the section on exceptional circumstances on a positive note, a number of **positive aspects** emerged concerning **extraordinary meetings**. For instance:

- ▶ the fact that only one EWC member mentioned that the central management had already rejected a request for an extraordinary meeting by the staff representatives;
- ▶ the fact that most EWC members believed extraordinary meetings had been held as soon as possible. No genuine connection can be established between the origin of the request (management or EWC members) and the opinion concerning the appropriate time for the extraordinary meeting.

Concerning the **improvements to be made**, several EWC staff representatives singled out the following:

- ▶ The need for information prior to the decision. This would require greater responsiveness on the part of the management and the EWC members. Some respondents emphasised that increased responsiveness on the part of the staff representatives would enable EWCs to demonstrate their commitment and be taken more seriously by the management, especially as major players in the life of the enterprise. For instance, one response stated that extraordinary meetings should be held more often so that the EWC could feel stronger.
- ▶ Another area which requires improvement is the information and consultation procedure as such. A first improvement would be to make the procedure for requesting an extraordinary meeting easier and more flexible. Information should also be more specific and contribute to an understanding of the enterprise's situation. As for the consultation, it should include more than a question-and-answer session and lead to the issuance of an opinion by the EWC. Moreover, interpretation should also be available at such meetings.

## Transnationality

Part of the study concerned the concept of transnationality, in particular to determine whether managements refused to include issues in the agenda which the members considered to be transnational. **Most EWC members considered that they had encountered no problems concerning the concept of transnationality.**

In the case of EWC members who had experienced such rejection by the central management, the issues concerned were highly diverse and most often related to a merger, acquisition, transfer, closure or restructuring.

One important point was the problems encountered by EWC members regarding the inclusion in the agenda of issues relating to the central management and affecting a country other than the management's. Other issues were also mentioned, such as the application of a Europe-wide agreement, posted workers and the resources made available to EWC members at local level. One member also mentioned events outside the European Union.



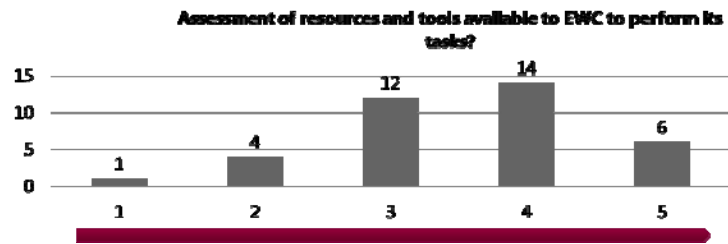
### Improvement prospects

Among the **suggestions** from EWC members on ways to prevent managements from refusing to allow transnational issues to be included in the agendas of EWC meetings, the following were mentioned:

- ▶ The importance of **communication between EWC members**, in particular the forging of stronger bonds of trust, as well as with **national worker representation bodies**. Given the diversity of worker representation, EWC members could decide to adopt a method for working with local trade unions and any other representative bodies (in particular in countries where there is no genuine staff-representation structure). As such, EWC members would acquire information they could then use in their relations with the management to incite the latter to include additional issues in the agenda, in particular to emphasise their transnational character.
- ▶ Another aspect which, in the EWC members' view, requires improvement is **the definition of transnationality** in the agreement. While some suggest that the characterisation of issues handled by the EWC as transnational be dropped, others mention the need to take this aspect into account when a decision is made in a country other than that where workers will be affected.

## Means and tools

The assessment of the resources and tools available to EWCs to fulfil the missions specified in the EWC agreement **was largely positive** (see figure to the right).



- ▶ Closer analysis of the issue shows that opinion concerning the **financial and material resources** made available to the EWC members is fairly positive. However, it should be emphasised that there are differences and inequalities between EWCs (some believe the means available to them are inadequate), as well as within EWCs. It is therefore important that EWC members check that all their members have the material and financial resources specified by their agreements at the local level.

A minority of respondents mentioned an operating budget. However, no amounts were specified. In some cases, no operating budget was mentioned. Whether or not a budget is drawn up, most responses indicated that the management paid all amounts requested by the EWC. Thus, meeting costs (transport, hotels, restaurants, wages, etc.) were paid by the enterprise in the case of both ordinary and extraordinary meetings. Interpretation was also mentioned, even if in some cases not all languages were interpreted. Although the management also paid for document translation, there were some inequalities in this respect.

Other material resources were also mentioned: the supply of a computer (laptop or tablet), Internet access, phone bills and office-related expenditure. Resources may also include expertise and training.

- ▶ Almost all EWC members stated that they shared information with their EWC colleagues. For instance, some members send important information concerning events in their country, concerning their sector, the socio-economic situation of the company and the mode of operation of the local staff-representation bodies. Indeed, a number of respondents mentioned that reports of meetings within such bodies were sent. Such information sharing is based on specific situations (e.g. rumours concerning restructuring, mergers or any other issue defined by the EWC members as important).

In this **network approach**, information is usually sent to the secretary/chair of the EWC. However, there was some regret at the lack of feedback concerning the information sent.

Concerning the mode of operation of networks, it was no surprise to learn that **e-messaging** was the most widely used means of communication used by EWC members. Members emphasised the possibility of using an online interpreter so that information could be shared in the greatest possible number of languages.

When members are able to speak the same language, the phone is also used. Some EWCs or members have endeavoured to develop innovative means of communication. One EWC has a group on a social network; another has its own website (however, this does not function well; it appears to be monopolised by one country, so that it is not visited by other representatives).

One fairly negative aspect is the difficulty experienced by EWC members in using trade union networks to circulate information. Only a minority state that they use such networks to share information. This is due to the fact that such networks are often limited to one country and that there are no genuinely European trade union networks.

Finally, most EWC members stated that their resources for informing the group's workers were adequate. Although the ability to visit sites was appreciated, few EWCs availed themselves of it.

- ▶ One much-appreciated resource was **training**. The first cause for satisfaction was the possibility of exchanging with other EWC members and learning to work as a group. The other satisfactory aspect was the improvement of knowledge which increased the efficiency of the EWCs.

Training time varies from one agreement to the next. In one case, a number of days is specified, from one day per mandate to 12 days over a period of four years (duration of the mandate) and even – in one case – five days per year. In a second case, no times were set and the training was supplied if required for the exercise of the mandate or for the smooth operation of the EWC. These differences did not appear to have any particular impact given the number of issues discussed.

Issues discussed during training proved highly diverse. The first subject was EWC legislation (including the new Directive), EWC agreements and the best practices of other EWCs. Other, more specific areas may be approached: health and safety, communication, work organisation, corporate social responsibility, how to read a balance sheet, sustainable development policies. More “European” issues were also included in training courses: staff representation and social legislation in the EU countries and the European trade union organisations (ETUC and EFBWW). Language training may also be supplied.

Training courses also serve to increase cohesion between members.

- ▶ A very great majority of the EWC members taking part in this study reported that their EWC included a **trade union coordinator**. Very often, the trade union coordinator takes part in all meetings, even if it is sometimes difficult to reconcile the coordinator's and EWC's timetables. Sometimes, the coordinator assists the EWC members during meetings at which the management is not present (e.g. select committee, preparatory meetings).

EWC members expect the coordinator to supply assistance with all difficulties which may arise in the operation of the EWC, and therefore a wide-ranging expertise. The issues mentioned in the responses are highly varied: implementation of the agreement and Directive, strategy for dialogue with the management, communication between EWC members, good EWC operating practices, economic and financial analysis, health and safety, communication between members and training.

Trade union coordinators are most useful to EWC members at certain specific times: during the negotiation or renegotiation of a EWC agreement, the preparation of meetings and restructuring.



The work of coordinators is thus perceived to be very positive. Their availability and responsiveness to questions are particularly appreciated, as well as their expertise on the operation of EWCs (customs and legislation) and enterprises. The EWC members praised their contribution during the negotiation of EWC agreements, especially the first agreement, as well as their initiative and external viewpoint.

The chief difficulty is that the coordinator is often a member of a specific trade union organisation, so that some members would like several coordinators to be appointed to ensure the representation of more countries and trade unions.

The work of the EFBWW is also much appreciated, especially its support with the negotiation of first EWC agreements and during exceptional events such as mergers. Its availability is praised, as well as the possibility of meeting other trade union organisations. The newsletter is also appreciated, even though some respondents criticised a lack of communication on the part of the federation. It is interesting to note that the EWC members demand more of the EFBWW and that no one felt its assistance to be unnecessary.

► **External expertise** is perceived very differently depending on the country of origin of the EWC members; in some cases, the expert is confused with the trade union coordinator and the trainers. Although expertise with respect to the members of works committees is given a precise definition in France, especially in matters relating to finance or economics, expertise is considered in other countries – such as Belgium or the Scandinavian countries – to be a skill which trade unions actually possess. This diversity of interpretation explains why in many EWCs it is difficult to call upon an external expert and why the legislation applicable in the country where the management is located strongly affects the use of expertise by EWC members. Some EWC representatives mentioned that their agreement included the ability to call upon external expertise, most often an expert paid by the management. However, a significant number of EWCs require permission by the management to guarantee financing. In the case of most EWCs, the expert may take part in all meetings (ordinary, extraordinary, preparatory, select committee). However, some agreements limit their presence during extraordinary meetings or at meetings where only worker representatives are present (preparatory, select committee).

Areas of expertise are not much regulated by EWC agreements. Some of these cover financial expertise, others a trade union expert or an expert in a specific area such as health and safety. In most agreements, expertise is conceived as *ad hoc* assistance (“as required”, “on request”, “in case of need”). In practice, EWC members begin by mentioning the area in which they require expertise at a given time, in particular with a view to better understanding what is going on and being able to ask the management the right questions. Thus, expertise requested needs to be fairly general and provide an understanding of the company’s situation. Areas of expertise may also be economic (e.g. the evolution of industry or company strategy), social, financial (results), legal, or relate to specific events such as mergers.

However, at least 10 EWC members reported that they had never called upon an expert. If one adds the EWCs where the expert is actually the trade union coordinator or a trainer, it may be said that a considerable number of EWCs do not make full use of their right to expertise for their EWC. A Belgian EWC member also mentioned the fact that analysis of enterprises is performed by Belgian trade unions, in particular via the network of worker representatives at the company.

The positive aspects include the supply of specific knowledge to the members, as well as assistance to increase the efficiency of the information and consultation procedure (in particular to supply an analysis of the enterprise and its prospects). Explanations concerning the differences between countries are also a much-appreciated form of expertise.



### Improvement prospects

- ▶ When questioned on their expectations other than information and consultation, the EWC members more specifically mentioned the need to build a group and foster trust between EWC members, as well as between the select committee and the other EWC members. This requires better communication between EWC members and a better understanding of Europe's various social and trade union practices (in particular via training sessions).

Some members also hope to create trade union and/or worker-representative networks within the enterprise by means of a unionisation campaign in some countries and the development of relations between management and worker representatives in some countries.

The respondents also emphasised the need to further raise the awareness of local representatives and trade unionists with regard to European issues and improve the coordination of the various trade union levels (local, national, European and international).

Another expectation is better communication with the company staff.

- ▶ As far as material and financial resources are concerned, some members would like to have their own budget or budget line so that they can be more independent. Another aspect is equality between members, especially where the translation of documents and interpretation are concerned (equality in the area of language barriers), as well as time for all members (whatever the legislation of the country where the representatives work). One important aspect is the availability of hours during which the tasks of worker representatives in EWCs can be performed. Moreover, a number of members mention the need for the improvement of the communication tools available to them.
- ▶ One way to improve training would be to increase the number of training days and organise training more regularly, especially concerning the issues raised during plenary meetings. The respondents also singled out difficulties with the choice of trainers and the content of training courses without interference by the management.

Concerning the subjects of training courses, several EWC members mentioned languages (e.g. so as to have one communication language between members and between members and enterprises, and understand the management of an enterprise). Concerning training methods, some members requested the supply of synthetic documentation as a memory aid to improve the follow-up to the training, increase the group's ability to deal with specific situations (especially by learning from other EWCs) and broaden the speakers' range during intervention.

▶ Concerning the **trade union coordinator**, one improvement would be the drawing-up of documentation for EWC members, in particular following seminars. More meetings or contact between meetings was also suggested. This highlights the perceived connection between the trade union coordinator and the EFBWW as well as the essential role played by the coordinator in transmitting information from the federation. Indeed, in the case of the few EWCs where there are relational difficulties between the coordinator and some EWC members, there is a wish to establish more direct relationships between the EWC members and the EFBWW.

▶ Concerning improvements to **external expertise**, several EWC members pointed to the fact that although they should use external experts more frequently expertise was not considered to be "natural" at European level. It was therefore suggested that the members discuss the concept of "expert" among themselves to come up with a closer definition of the term as well as of the areas concerning which expertise would enhance the work of the EWC.

One respondent emphasised that it would be good for experts to take part in all meetings, and another the need to better formulate the manner in which members could call upon an expert (in particular to prevent the management from selecting the expert). In the area of subject matter, one member suggested that expertise might enable the EWC members to improve their knowledge of the group's various subsidiaries. Another member expressed the wish that the EWC be better able to supply its own expertise, thus highlighting the link between expertise and training.

## *Case study: the Lafarge-Holcim merger*

On 15 July 2015, the merger between Lafarge and Holcim took place, giving birth to the global leader in the sector (cements, granulates and concretes), known as LafargeHolcim.

- ▶ Present in 90 countries, on most key markets in the industry (holding a leadership position in many of said markets)
- ▶ Over 2,500 sites worldwide: 1,600 concrete units, 600 quarries, 180 cement factories and 70 grinding units
- ▶ Employs approximately 115,000 salaried staff
- ▶ Turnover 32.6 billion CHF (2014)

This merger is the result of a long and complex process (1), which included an unusual information/consultation process involving the European Works Councils of both groups (2), in the course of which experience was gained which may be useful to European Works Councils (3).

### **(1) Presentation of the Lafarge-Holcim merger**

The LafargeHolcim merger completed a process which had begun 16 months earlier.

- ▶ At the beginning of April 2014, the planned merger was announced between the two international leaders in the sector.
- ▶ Lafarge and Holcim were approximately the same size. Each had a turnover of over €15 billion and employed approximately 63,000 people around the world in the case of Lafarge (over 20,000 of whom were located in Europe) and 68,000 in the case of Holcim (almost 16,000 of whom were located in Europe).
- ▶ Both groups highlighted their geographical complementarity and announced major synergies in the areas of organisation, purchasing and financing (€1.4 billion).

**This kicked off a long and complex process – a global merger.** Transfers were announced, especially in Europe, in the two groups' first communications.

- ▶ Lafarge and Holcim decided to adopt an approach unusual in Europe, i.e. to transfer the assets of one of the groups in the presence of both groups. This would satisfy the European competition authorities, who quickly approved this process (December 2014).
- ▶ The authorities of the other countries concerned (Canada, Brazil, India, United States and the Philippines in particular) gave their approval in the course of the following months.

- ▶ CRH was selected to be the purchaser of the first assets transferred at the beginning of the year (Europe, Canada, Brazil, Philippines)
- ▶ Over 15,000 workers (approximately 10,000 of whom were in Europe) left LafargeHolcim.

The operation was presented as a “merger between equals”. Technically, it was the acquisition of Lafarge by Holcim by means of a **public exchange offer**:

- ▶ A balanced governance shared by Lafarge and Holcim was proposed and the exchange was initially planned in the form of one option per share, a mechanism which had to be validated by the shareholders of both groups.
- ▶ In March, strong pressure by the shareholders of the Swiss group altered the terms of the exchange. The parity was changed in favour of the Swiss shareholders. Moreover, the position of CEO of the future group, which had been promised to Lafarge CEO Bruno Lafont, was ultimately given to Éric Olsen, one of the Lafarge vice-presidents.
- ▶ The General Assemblies agreed to the operation under these conditions and the public exchange offer was launched at the beginning of June 2015. It was a success and enabled the merger to take place.

During this process, Lafarge and Holcim also began to **build their new Corporate organisation**, i.e. functions “above the operations”, with a view to integration.

- ▶ In particular, this included transferring the company headquarters to Switzerland and restructuring the technical functions.
- ▶ This also caused several hundred jobs to be cut by both Lafarge and Holcim, especially in Europe.
- ▶ This project was subject to information/consultation of the bodies representing the staff in the spring, as both groups intended to deploy the new organisation promptly.

## (2) The information and consultation process regarding the planned merger between Lafarge and Holcim

Due to its scope, this planned merger required that the European Works Councils (EWCs) of both groups be informed/consulted (a). It also raised the issue of relations between the European level and the national bodies consulted (b) as well as those at international level (c).

### a) Information/consultation of EWCs

Both Lafarge and Holcim were global groups, most of whose staff were located outside their respective countries of origin, France and Switzerland. Both groups had entered into European Works Council agreements.

- ▶ Both agreements had been concluded prior to the European Directive of 1994. They were held to be “pre-Directive” agreements, which does not mean that since 1994 (in the case of Lafarge) and 1996 (in the case of Holcim) they had not been changed to take into account successive changes to the legislation.
- ▶ The Lafarge agreement was amended in 2011 to take into account most of the changes introduced by the 2009 Directive, and the Holcim agreement changed in 2014 with an increase in the role played by the select committee.

The select committees and European committees of both groups met soon after the announcement of the merger project. Under the leadership of the EFBWW coordinator, a discussion within the Lafarge European Works Council began concerning the information/consultation process in view of the complexity, duration and uncertainty of the merger process.

- ▶ The EWC and EFBWW wished to receive the right information, understand the project, be able to anticipate social issues, have the necessary resources and reserve their opinion for the end of the process. From the outset, the management agreed that an external expert be taken on to assist the EWC.
- ▶ The management wished to oversee the process, preserve the social climate and limit risks, especially in view of the fact that the French group was being acquired by the Swiss group.

In June, these talks led to the adoption of **an agreement known as an “agreement on method”, which in many ways improved on the regulatory framework:**

- ▶ Discussion periods were planned throughout the progress of the statutory procedures: concentration – transfer – choice of purchaser – public exchange offer - restructuring
- ▶ This agreement also included ongoing talks concerning the stakes of the merger. From the beginning of the process, Lafarge’s European Works Council worked with the external expert on the reasons for the operation, the issues in the area of organisation and governance, the risks to employment and the issues relating to social policy and social dialogue.

- ▶ This agreement introduced “exceptional resources”: regular meetings of the EWC and its select committee, completed by *ad hoc* committee meetings for the Lafarge EWC. Like both multinational groups, the Lafarge EWC set up an integration committee and a disinvestment committee to work on these specific areas.
- ▶ The agreement specified that the opinion with reasons of the European Works Council would only be given at the end of the process, once the PEO and the central reorganisations had begun. This opinion was issued on 10 July 2015.

It should be noted that the management of Holcim were reluctant to engage in this process.

- ▶ Both groups had different social cultures. Whereas Holcim’s approach to its social dialogue was to emphasise local compliance, Lafarge’s European social relations were more institutionalised. For instance, in 2005, Lafarge had negotiated an international framework agreement with both the international trade union federations in its sector, BWI and IndustriAll.
- ▶ The obligations concerning information/consultation were less stringent at Holcim’s Swiss companies than at Lafarge’s French companies, especially at corporate headquarters.

However, as time went on, Holcim’s European Works Council adopted a similar approach, although it did not have the resources to work on the issues involved in the merger.

- ▶ With the assistance of an external expert, the Holcim EWC also mainly worked on the statutory procedures: concentration, transfer, PEO and restructuring.
- ▶ Via the consultation process, the Holcim EWC also requested the creation of a shared-services centre in Slovakia for the administrative functions of several European countries.

The EFBWW took part in the implementation of this agreement. Joint meetings of the Lafarge and Holcim select committees were organised each month by the Federation and chaired by the coordinators of both bodies. The EWCs were thus able to define a number of shared demands concerning employment guarantees, worker status and social dialogue.

#### **b) Relations with the national bodies**

Relations with the national bodies took place via the members of the European Works Councils at specific times.

- ▶ As the proposed transfers in Europe had been announced well in advance, the Lafarge EWC, together with its external expert, was able to work with the national bodies concerned in order to better understand the situation and frame demands consistent with those of the European Works Council (employment, status, social dialogue).

- ▶ Within the scope of the restructuring announced for the spring of 2015, the representatives of the national bodies consulted were invited by the Lafarge European Works Council to improve their understanding of local issues and formulate their opinions.

Moreover, reports of the various meetings of the EWCs and their commission, as well as meetings at the EFBWW, were regularly drawn up. They were translated into the committees' various languages and disseminated to the members.

### **c) Relations with international bodies**

During the EWC information/consultation process, two global trade union conferences were organised, one in Belgium in November 2014 and the other in Switzerland in June 2015, in which the select committees of both EWCs took part.

Moreover, representatives of the international federations (BWI and IndustriAll) took part in a number of joint committee meetings organised by the EFBWW in Brussels.

## **(3) Lessons learned from the information/consultation process concerning the planned merger between Lafarge and Holcim**

The merger between Lafarge and Holcim took place. Hundreds of jobs were promptly cut as the new group's organisation was implemented worldwide, mostly in European (chiefly in France and Switzerland, but also in Spain and Austria). The consultation of the European Works Council did not lead to a joint decision and no right of veto was given.

- ▶ Despite the Lafarge EWC's wish to anticipate events, the managements did not share their analyses of their organisations and goals in advance.
- ▶ The organisational plan decided upon by Lafarge and Holcim was non-negotiable, even though the Lafarge EWC, with its expert and in cooperation with the representative bodies of the entities concerned, emphasised that many job cuts did not appear to be economically motivated and might cause the organisation to malfunction. This plan was based on a compromise between both groups and the new distribution of powers within the new organisation.



However, the information/consultation process **did enable a number of processes which were both valuable and useful to the workers' representatives** to be undertaken.

The talks leading to the **agreement on method** enabled the worker representatives to measure the complexity of the project and obtain the related resources.

In this way, the Lafarge European Works Council became a player in the process and did not simply submit to the companies' agenda. It was supported by the coordination organised by the EFBWW. Throughout the process, the committee issued suggestions and demands. The work of the external expert enabled it to organise its approach and better anticipate the future group.

The Lafarge EWC was able to formulate concrete **social demands** in cooperation with the representative bodies of the transferred companies.

- ▶ The demand for guarantees relating to employment and status concerned a three-year period. A one-year period was included in the sales contract.
- ▶ In the area of social dialogue, it was possible to initiate meetings between the EFBWW and the management of CRH, which until then had refused to include a coordinator in its European forum.

Within the scope of the restructuring, advice also enabled "above the operations" functions to be added, in cooperation with the representative bodies of the entities concerned.

Under the aegis of the EFBWW, members of both EWCs began writing a **draft EWC agreement for the future group**. In particular, this project was based on an analysis of the existing agreements and practices at Lafarge and Holcim as well as on the issues faced by the new group. For instance, there had been calls to set up committees on integration monitoring, health and safety and Corporate Social Responsibility (CSR). This made it possible to set aside Holcim's objections concerning the potential negotiation of a new agreement by December 2014. This preparatory work will be presented to the Special Negotiating Body (SNB).

**Communication** with the workers and their national representatives was also a constant concern for the EWCs and EFBWW. Reports of the meetings were regularly drawn up and translated into the various languages for dissemination in the countries concerned.

**Regular meetings** of the two expanded select committees also enabled the representatives of both groups to get to know each other better. Without prejudice to the date on which the future agreement is signed or its composition, this mutual acquaintance should improve the operation of the future EWC.

Finally, the international meetings made it possible to include the European staff representatives in the global dimension of the new group.

## *To conclude: issues, expectations and prospects*

*“The European trade union movement faces major challenges: the ongoing financial, economic and social crisis; dramatically high unemployment, in particular that of young people; the establishment of undemocratic forms of EU economic governance; the ongoing austerity policy and last but not least severe attacks on workers’ information, consultation and participation rights and on collective bargaining; interference in the autonomy of the social partners.”*

Excerpt from the ETUC resolution adopted at the Executive Committee Meeting of 22-23 October 2013

In today’s world, worker representatives are increasingly called upon to deal with issues relating to work and employment in their transnational action. **European Works Councils (EWCs) have become strategic meeting points for social dialogue in internationalised companies. The ability to ensure the effectiveness and efficiency of the rights and competencies of EWCs in the areas of information and consultation has thus become a key issue.**

First of all, this issue is linked to the improvement of the EWC information and consultation practices and forms a part of a **wider context** which affects the status of worker representation and participation as well as its evolution:

- ▶ On the one hand, the **economic and financial crisis** has highlighted the need for anticipation as well as information and consultation in view of the restructuring in which multinational groups specialising in construction have been engaging.
- ▶ Moreover, in 2010, the European Commission introduced the **concept of the ‘fitness check’**. This involves identifying the discrepancies, redundancies and inconsistencies between European directives, with a view to reducing the administrative burden and rendering European legislation more effective. Since then, this type of exercise has come to form an integral part of the European strategy as well as of its jargon. In 2013, the Commission announced the *‘Refit – Fit for Growth Programme’*, the purpose of which was to analyse, amend or withdraw the parts of Community legislation which would be considered to be “no longer fit”. Via the various directives, the issue of workers’ rights to information and consultation is also examined from that angle. For instance, a first pilot exercise, the purpose of which was to analyse three directives on worker information and consultation, was begun in 2010<sup>11</sup>. Two further exercises are currently underway<sup>12</sup>; others have been announced. In this context, organisations such as the European Trade Union Confederation (ETUC) and European Trade Union Institute (ETUI) have issued several alerts concerning changes perceived to be dismantling the European social model. Given the fact that an assessment of the Recast Directive of 2009 on EWCs is planned to take place by June 2016, it goes without saying that **concerns have been raised about the future of the right to information and consultation of transnational representative bodies.**

<sup>11</sup> The three directives analysed were: Framework Directive 2002/14/EC; Directive 98/59/EC on collective redundancies; and Directive 2001/23/EC on transfers of undertakings.

<sup>12</sup> In 2013, two Fitness Checks were initiated: one on an employer’s obligation to inform workers of the conditions applicable to the contract or employment relationship (Directive 91/533/EEC); the other on the Framework Directive on workplace health and safety and its 24 specific directives.

- ▶ With this in mind, ETUI published a study in 2015 on the implementation of the 2009 Directive. From a legal point of view, this analysis shows that **the quality of national transpositions varies considerably within the European Union (EU)**. As far as information, consultation and transnational competency are concerned, the author points out that the **quality of implementation is equally unclear**. Indeed, the heterogeneity of national definitions may compromise the quality of the implementation of the competencies and rights specific to EWCs.

Few resources for meetings, infrequent and highly intense meetings, a flow of highly complex information, relations between members rendered more difficult by linguistic and cultural diversity, etc. Previous work by the EFBWW concluded that there was **room for improvement in EWC practices**; a conclusion supported by the results of the exchanges within the scope of this project.

- ▶ Our study has identified a number of **difficulties experienced by EWC members, such as finding the time to discuss EWC goals as well as the resources to do so**. Indeed, it is recommended that EWC members avail themselves of the time available to them (in the absence of the management) to agree on their EWC's goals and the resources required for their implementation. Although differences of opinion and understanding appear to exist within EWCs, members do not appear to be taking the time to find a joint strategy to remedy this situation and work out a genuine work plan for EWCs.
- ▶ As well as the goals to be determined by the members, the **rules and principles which regulate the internal operation of EWCs** also require clarification. Problems related to a lack of member involvement or the monopolisation of EWCs were frequently mentioned during the interviews. Moreover, unless the agreement or Directive can be amended within a short time, only an improvement in the internal operation and practices of the EWC can bring about prompt and tangible improvement. Whereas the EWC needs to be organised as a single body, there are many inequalities within EWCs in terms of the resources available to the worker representatives and the taking into account of the impact of decisions on workers in certain countries. For instance, it has proved important that a EWC set its own internal rules and principles. For this purpose, the EWC members may agree on a document (e.g. internal regulations, code of conduct, etc.) which regulates the EWC's practices.
- ▶ Also, most members appear desirous to improve the EWC, yet seem **frustrated that their commitment is not bearing fruit as expected**. One of the chief complaints addressed by the EWC worker representatives is that in the great majority of cases **the EWC is only informed and consulted after a decision has been made by the management**. Hence, EWC involvement becomes useless, or at best a means of managing the social consequences of decisions which have already been taken and are on the point of being implemented. Several factors were put forward by the EWC members to explain why EWCs were most often involved far too late: the small number of meetings, EWC not taken into consideration by the management, lack of knowledge of the issues affecting the various countries, the reluctance of members to be proactive in the decision-making process, etc. All these issues can be addressed by both the EWC agreements and the actual operation of the EWCs.

- ▶ Beyond the information phase, **genuine consultation of the EWC** would ensure that the workers' voices were heard and taken into account during decision-making processes. Too often, EWC members feel that the management excludes the EWC from its decision-making process and is not much inclined to use the opinion of the EWC members to help shape its decisions. Many EWC members believe that stronger EWC involvement would give the management an opportunity to make better decisions. Moreover, our study shows that the information supplied is not comprehensive enough to assess how decisions will impact workers. One common complaint is that managements frequently do not adequately describe the impact on workers of extraordinary decisions (e.g. an acquisition) or issues considered to be important by the EWC (e.g. subcontracting, workplace health).
- ▶ Whereas many EWC members state that they are able to understand the enterprise's situation, they acknowledge that **they often find it difficult to anticipate developments**. The information supplied is often limited to a summary of the previous year and very little is supplied concerning the company's strategies and future. Although not enough data are available to analyse the company's prospects, the EWC members also admit **that they lack the analytical skills** to anticipate the development of their enterprise.

## PART III – Thematic factsheets

Although the agreements and practices of European Works Councils are fairly heterogeneous, the questionnaire and the various exchanges which took place in the course of this study show that improvements to the operation of EWCs are expected. **It is with this in mind that, together with the EFBWW, we have drawn up a series of practical factsheets on key aspects of the operation of EWCs.** This project was based on the idea that, in ordinary circumstances, EWCs can define objectives shared by their members and that it is on the basis of these objectives that resources and rules for operation can be applied and EWCs can ensure that information and consultation prove useful.

The **following thematic factsheets** have been drawn up:

1. Objectives and action plan
2. Information
3. Consultation
4. Transnational character
5. Restructuring
6. Mergers & acquisitions
7. Interaction between EWCs and national bodies
8. Interaction between members of the EWC
9. Training
10. Trade union coordinator
11. External expert
12. Relations with workers (communication)

These factsheets comprise **two parts**:

- ▶ A “theory” section which posits the legal framework concerning the issue addressed
- ▶ A “practice” section presenting recommendations and existing practices relating to the issue addressed

The factsheets are **intended** in particular for:

- ▶ Special Negotiating Bodies, to support their negotiation of agreements
- ▶ Existing EWCs, to help them improve their practices and even their agreements at the time of their renegotiation

## Thematic factsheet 1 - Objectives and action plan

### Theory

Article 1 of Directive 2009/38/EC stipulates its objective: *“to improve the right to information and to consultation of employees”* and states that *“to that end, a European Works Council [...] shall be established [...] with the purpose of informing and consulting employees. The arrangements for informing and consulting employees shall be defined and implemented in such a way as to ensure their effectiveness and to enable the undertaking to take decisions effectively”*. *“To achieve that, the competence of the European Works Council and the scope of the information and consultation procedure for employees governed by this Directive shall be limited to transnational issues”*. (See related information sheets).

The Directive makes a distinction between information, which should enable the employee representatives to understand - *“to acquaint themselves with the subject matter and to examine it”* - and to anticipate – *“to undertake an in-depth assessment of the possible impact”*, and consultation, which should enable them to express *“an opinion on the basis of the information provided about the proposed measures to which the consultation is related [...] and within a reasonable time”* and which *“involves the possibility of obtaining a reasoned response to any opinions expressed”*.

In Article 6, the Directive stipulates that *“the central management and the special negotiating body must negotiate in a spirit of cooperation with a view to reaching an agreement on the detailed arrangements for implementing the information and consultation of employees”*.



#### Key points

**The European Works Council agreement defines the arrangements for informing and consulting employees. The agreement and its practical implementation are tools that can be used by the employees’ representatives. They must be developed in accordance with the representatives’ objectives and must define the tools and resources needed to ensure the EWC’s smooth operation.**

## Practice

The European Works Council must set objectives to structure its actions during its term of office, either through the European Works Council agreement or through its practices, in other words, the Council must breathe life into its agreement.

- This could be done at the time of the renewal of its mandate or when the agreement is renegotiated. It is about taking stock of the term of office that is coming to an end and identifying the challenges and concerns shared by its members. This can be done at a preparatory meeting or a training course.
- These objectives could cover issues relating to the Council's **operation or means** - of communication for example - available to it, as well as challenges relating to **information and consultation** of employees on economic or social issues.
- This implies making a distinction between the day-to-day running of the Council - and its **standing objectives** - and **exceptional circumstances**, the cause of which will determine the goal of the employees' representatives and which will give rise to specific procedures.

An equivalent approach can be adopted by the Special Bargaining Group within the framework of a new agreement.



## Practice (continued)

Each company and each EWC has its own specific challenges. The employees' representatives must define the areas about which they wish to **be better informed in order to better understand and anticipate, or even about which they wish to be consulted.**

**Benchmarks are provided by the EFBWW**, which defined, at its last Congress in Palermo, objectives that could be rolled out in the EWC in a number of areas: employment policy (permanent, temporary, subcontracted, etc.), industrial relations (employee representation, collective bargaining), vocational training, health and safety and sustainable development.

**The Directive also provides benchmarks** in its subsidiary requirements. The information categories include the economic situation and prospects of the company. Having a better understanding of, and anticipating, these aspects allows for a better understanding of the social challenges and risks (employment and training, etc.). The areas of consultation include the employment situation and probable employment trends (linked to the objective relating to the EFBWW's employment policy), investments (indicators of the company's strategy), as well as decisions and changes relating often to exceptional circumstances *"which have a significant effect on the interests of employees"* (organisational change, merger, restructuring processes, etc.) and which are subject to specific procedures; and which may require specific arrangements (e.g. agreement on method).

In practice, depending on their objectives, some EWCs set up ad hoc **committees** to work on **specific** topics. Within the EFBWW, several EWCs have set up a Safety Committee, which sometimes deal with health as well. Some have set up a Sustainable Development Committee or Social Responsibility Committee.

These objectives and action plans are to tie in with **the European trade union ambitions or objectives** - they could form the basis for the collective bargaining of European agreements or relate to the monitoring of their implementation – as well as with the **national challenges of the employee representatives.**



**Define objectives by period – by term of office – and by subject relating to the operation or resources of the Council, as well as information and consultation issues**

- **Objectives that reflect the challenges faced by the company and the EWC**
- **Have the means to define these shared objectives (training, dedicated meeting at the start, during or at the end of the Council's terms of office, etc.)**



## Thematic factsheet 2 - Information

### Theory

Article 2 of Directive 2009/38/EC defines information as: *“The transmission of data by the employer to the employees’ representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees’ representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings”*; and Article 8 of the Directive introduces the notion of the potential confidentiality of some information.

The Directive makes a distinction between “ordinary” information circulated to the EWC at its annual meeting or meetings and information provided in relation to “exceptional” circumstances linked to decisions *“that considerably affect the interests of workers”*, which are subject to specific information and consultation procedures.

The subsidiary requirements stipulate that *“the information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments [...]”*

*“[...] substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies”*, which relate more to the exceptional circumstances.

Within the framework of a consultation, information is a pre-condition to consultation.



#### Key Points

**The information is provided at such time, in such fashion and with such content as are appropriate [...] to enable an in-depth assessment of the possible impact and, where appropriate, prepare for consultations**

## Practice

In practice, many EWC members point to the real difficulties encountered in accessing information under satisfactory conditions. However, in order to allow for “*the in-depth assessment*” to be conducted by the employees’ representatives, the requirements for the information procedure are as follows:

- **The information must be provided sufficiently in advance.** A written report must be submitted to the EWC. Some EWC agreements establish deadlines (a few weeks) for circulating information for ordinary meetings. Others make provision for a preparatory meeting, with the documents circulated in advance of the ordinary plenary meeting. It should be recalled that, within the framework of a consultation procedure, information must first be provided.
- **The information must be understandable to the employee representatives.** Many agreements make provision for the information to be disseminated in the languages of the Council. The use of a single language, which is usually English, and which has been observed in several EWCs, runs counter to the spirit of the Directive and its objective of improving information and consultation. The Directive does not introduce, in any shape whatsoever, discrimination in respect of command of foreign languages. For example, article 6 of the Directive, which lays down provisions relating to the content of the agreements, encourages the composition of the EWC to “*take into account where possible the need for balanced representation of employees with regard to their activities, category and gender, and the term of office*”.

The content of the information must meet the consultation needs in the event of exceptional circumstances, as well as the objectives of the EWC within the framework of the ordinary information and consultation procedure, by taking into account various factors.

- **The information must be defined.** Generally speaking, it is worthwhile being aware of the definition of information and performance indicators that are used by the Group.

If the consolidated accounting of the groups is subject to international standards (IFRS), those groups have a certain amount of freedom to define their key economic indicators. At consolidated level, the differences between groups often relate to the valuation and positioning of non-recurring events (restructuring processes and divestments, etc.). For the companies within the Groups, an important aspect is the treatment of the fees and payments made to the Group.

On the other hand, social reporting is much less standardised, insofar as the national frameworks continue to govern labour law. It is true that the most progressive groups, as part of their Corporate Social Responsibility (CSR) commitment, use international benchmarks (such as the Global Reporting Initiative (GRI)) when producing their social reports. But they tend to define topics rather than information content. The distinction between Management and non-Management, the notion of permanent employees and accident data are typical examples of information to be defined. Some Groups have made progress on this front, particularly in the field of safety.

## Practice (continued)

- **The scope of the information.** There could be an apparent contradiction between the scope of transnationality defined in the directive - i.e. focused on the countries of the European Union - and the stated ambitions in terms of information and consultation.

In order to optimise understanding of the company's situation and anticipate changes, access to information across the scope of the Group is required: strategy, investment choices, financing growth and debt restrictions, distribution/transfer of production or services (engineering, design offices, administrative services, etc.), exposure to economic, environmental and social risks (issue of social rights, supplier chains and subcontractors, etc.).

From this point of view, the scope of the information must be expanded to include European countries that are not members of the European Union, whether they are candidate countries, Switzerland, or others, as well as to the rest of the world, particularly for Groups that are looking to develop a global presence.

Several EWC agreements grant observer status to some countries that are not members of the EU.

- **The level of information.** This involves deciding what is the relevant level of information for a given topic: global, European or national, for example?

Although national bodies cannot be replaced, a better understanding of developments in the various countries can help to better understand the probable employment trends or investment policy or to anticipate decisions with a transnational dimension, for example the transfer of production following the closure of a local site (due, for example, to economic difficulties), production flows between countries, or even workforce flows (service provision, posted work, etc.), experimentation with new technologies or organisation, divestments or acquisitions.

Similarly, a better understanding of company policies in the various countries can form the basis for discussions on the 'transnational' dimension of policies that are presented as being exclusively local: organisation of production and use of subcontractors, for example.

The Directive states that the employer must provide the information and this is a shared responsibility of all management departments at all levels of the company (not just of central management).

- **The period covered by the information.** Historic data provides an understanding of the company's situation; in order to facilitate anticipation, access to company projections could be helpful, especially in the context of a consultation on *"the probable trend of employment and investments"*.

## Practice (continued)

- **Confidentiality.** Companies may be reluctant to divulge some information on grounds of confidentiality. In particular, stock-listed companies tend to limit information pertaining to market bond projections (insider trading, effect on share prices, etc.). The Directive provides the possibility to management for not (fully or partially) disclosing information to EWC members; under the condition that the information is considered confidential.

However, all information cannot be considered as confidential. It should be recalled that the EWC is not a decision-making body, but a body that is consulted on decisions that are in the process of being taken. Hence, the company's management should provide objective reasons and clearly define the confidentiality (regarding the information and the duration). The good functioning of the EWC depends in particular on the comprehensiveness and relevance of the provided information.

It is necessary to define the arrangements for providing information in such a way that the EWC can understand the topic at hand. For example, sales prices are often regarded as confidential. Should the absolute figure be presented or the percentage change in respect of market developments (in order to understand the positioning of competitors) or the percentage change in relation to cost changes (in order to understand performance trends)?

It is also necessary to make a distinction between what can be said or presented in the plenary meetings and what can be disseminated to employees in the meeting minutes.



Access to quality information is a key challenge for EWCs. However, the Directive explains that the information must be communicated at a certain time (in advance), in a certain fashion (understandable) and with such content as is appropriate. This relates to the challenge of defining the information communicated, the scope of the information, the levels of information provided and the period covered by the information for a given topic.

**We encourage EWCs to define the information they feel they need on the basis of their own challenges and objectives and the given consultation procedures.**

## Taking it further

We recommend a focus on the areas outlined in the subsidiary requirements with a view to improving understanding and anticipation through questions and information that might be useful.

**A. Group structure: *Who owns the company? What is its organisational structure? What businesses or activities? What is its international outreach?***

- Structure of the group's capital
- Operational organisational structure: decision-making structure and unit used to measure performance: country/territory and/or activity (base for the consolidation of the Group accounts)
- Functional organisational structure: organisation of shared support, business and technical functions
- Legal organisational structure: list of companies
- Change of scope (divestments/acquisitions)

**B. Activity, production and sales: *What are the activity trends, how are production and market supply organised?***

- Markets relevant to the management units
- Market trends
- Sales (by volume) and market share trends
- Inter-country flow trends
  - Import/export of products and goods
  - Labour and service flows
  - Divestment prices/rebidding
- Competition trends
- Price and sales trends (by value)
- Company's key activity indicator trends
  - Civil engineering (example): order book and order taking
  - Cement (example): clinker and cement production, use rate
- Impact of divestments/acquisitions

**C. Economic and financial situation: *What are the performance trends of the Group and its entities? Is the long-term viability of the Group or some of its entities in danger?***

- Key economic performance indicator and operating income trends
  - Operating costs
  - Subcontracting, temporary workers, in-house staff costs
  - Depreciation
  - Fees and other payments to the Group
  - Restructuring costs
- Financial results and net profit and loss trends
  - Corporation tax
- Financial flows
  - Investments
  - Acquisitions/divestments
  - Dividends
  - Tax
  - Working capital and cash-flow needs
  - Change in debt and net debt
  - Own capital
- Profitability
  - Invested capital, including goodwill
  - Operating income after tax
  - Applicable tax rate and actual tax rate
- Impact of divestments/acquisitions

**D. Employment situation and trends: *What are the employment trends? What is the social policy? What are the challenges in relation to subcontracting?***

- Employment trends
  - Permanent staff, total and by category
  - Non-permanent staff, total and by category
  - External contractors, total and by category
- Staff movements
  - Arrivals: hirings, acquisitions, transfers
  - Departures: divestments, layoffs, other redundancies, resignations, retirement, transfers, other departures

- Industrial relations
  - Staff covered by staff representative bodies and/or trade union organisations
  - Staff covered by collective bargaining agreements and/or collective agreements
- Training
  - Training intensity by staff category and type of training course
  - Nature of the training
- Subcontracting
  - Full-time equivalent for subcontracted work by type of subcontracting
  - Use of posted workers
  - Social conditions applicable to subcontracted workers
  - Intra-group transnational subcontracting

#### **E. Health and Safety at work**

- Working conditions
  - Working hours, flexibility
  - Absenteeism
- Accident data - employees, temporary workers, subcontractors
  - Number of accidents not resulting in time off work
  - Number of accidents resulting in time off work
  - Frequency rate
  - Severity rate
  - Fatal accidents
- Health
  - Occupational diseases
  - Risk analysis
  - Strain analysis
  - Analysis of psycho-social risks
- Social dialogue
  - Staff covered by health and safety dialogue bodies

## Thematic factsheet 3 - Consultation

### Theory

The Directive defines consultation as: *“the establishment of **dialogue and exchange of views** between employees’ representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees’ representatives to express an opinion **on the basis of the information provided** about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, **and within a reasonable time**, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings”* (Article 2.1g).

#### What is the purpose of consultation?

This opinion must be useful to the management's decision-making process: *“The definition of ‘consultation’ needs to take account of the goal of allowing for **the expression of an opinion which will be useful to the decision-making process**, which implies that the consultation must take place at such time, in such fashion and with such content as are appropriate”* (recital 23) but the decision remains the responsibility of management alone.

*“A distinction should be made between fields where information must be provided and fields where the European Works Council must also be consulted, which involves the possibility of obtaining a **reasoned response to any opinions expressed**”* (recital 44). The subsidiary requirements reinforce this idea that the management must respond to the EWC's opinion: *“obtain a response, and the reasons for that response, to any opinion [the members] might express”* (Annex 1, point 1.a).

#### What is the scope of consultation?

The consultation only relates to **transnational issues**: *“the competence and scope of action of a European Works Council must be distinct from that of national representative bodies and must be limited to transnational matters”* (recital 15).

According to the subsidiary requirements (Annex 1, point 1.a), the consultation must at least relate to *“the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies”*.



## Theory (continued)

These requirements thus introduce **two ‘types’ of consultation**: one type of a more standard nature (for example, the situation and probable trend of employment) and another related more to *“exceptional circumstances or decisions affecting the employees’ interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies”*.

### What are the procedures involved in consultation?

The definition of consultation indicates that information is a prerequisite, stipulating that employees’ representatives express an opinion **“on the basis of the information provided”** (see the relevant factsheet).

Although it is generally the European Works Council that needs to be consulted, the subsidiary requirements mention the possibility of consulting the **select committee**, when one exists, in the event of exceptional circumstances: *“the select committee or, where no such committee exists, the European Works Council shall have the right to be informed. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management [...], having its own powers of decision, so as to be informed and consulted. Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the circumstances or decisions in question shall also have the right to participate where a meeting is organised with the select committee. This information and consultation meeting shall take place as soon as possible on the basis of a report drawn up by the central management or any other appropriate level of management of the Community-scale undertaking or group of undertakings, on which an opinion may be delivered at the end of the meeting or within a reasonable time. This meeting shall not affect the prerogatives of the central management.”*



### Key points

- The consultation must be beneficial to the decision-making process, consequently, the quality of the information phase is important.
- The management must provide the EWC with a reasoned response but it is free to make its own decision.
- In the event of exceptional circumstances, the select committee's role may be more significant.

## Practice

The survey carried out by the EFBWW among the EWCs concerned found that they often considered the consultation procedure unsatisfactory due to the way in which they are run (the method) and the results produced (the outcome).

The EWC's opinion is only consultative in nature. **EWC information and consultation are different procedures from the participation going on in some countries**, where employees' representatives can chair decision-making bodies. Thus, in some cases projects can be discussed in these bodies before the EWC information and consultation procedure begins.

The consultation targets ***“the expression of an opinion which will be useful to the decision-making process”***. And the directive stipulates the methods which should allow the use of the consultation procedure : ***“the consultation must take place at such time, in such fashion and with such content as are appropriate”***.

- Consultation relies on an information procedure. The latter is therefore a prerequisite.
- In the context of exceptional circumstances, the information procedure should at the very least lead to discussions on the motivation for the project being subjected to consultation along with its social impact, in particular its impact on employment, working conditions and the organisation of work, guidance procedures applying to any reductions of the workforce, changes of jobs, and so on.

The inadequacy of the information procedure, in particular the details provided to employees' representatives to assess a planned merger's impact on employment, led to the French courts' decision on the consultation regarding the GDF SUEZ merger plans (2006).

- The procedure should begin on time in order for workers' representatives to have sufficient time to construct proposals (or claims) and influence the final decision, terms and content of the project. Limiting the consultation to an opinion on a ready-made decision is contradictory to the Directive.
- Time for exchange and discussion between worker's representatives and management should be foreseen.
- The consultation procedure should lead to an opinion of the EW; which management should provide with a reply.

As an example, the Holcim agreement explicitly states this (in this case it is the select committee expressing the opinion): *“The management shall have to carefully consider the opinion expressed by the select committee. If the management decide to not comply with the opinion, it shall have to provide the select committee with a written response in which it shall explain the reasons for which it is not taking the opinion into account”*.

## Practice (continued)



In light of identified practices, it is desirable **to make the information and consultation procedure explicit within EWC agreements.**

- Specify that information is a prerequisite for consultation
- Specify the usefulness of the consultation
- Put on record the role of the restricted committee
- In other words, the information procedure can –a priori- not be reduced to one meeting, with documents that have been provided on the day of the meeting, in only one language, ...

The information and consultation procedure – its agenda and necessary means in particular – should be adapted according to the scale and complexity of topics, the interweaving with national and local information & consultations. **Specific agreements** can be negotiated. This was the case for example for the Lafarge Holcim merger.

In the case of the information / consultation procedure on the Lafarge Holcim merger project, an agreement on the specific terms allowed the EWC to have sufficient exceptional means suitable to this exceptional transaction.

- Regular meetings of the bodies
- To resort to an external expert (bearing in mind the scale and complexity of the project)
- Drafting of social demands by the EWC of Lafarge in articulation with the representative bodies of the acquired entities
- Joint meetings of the two restricted committees under the umbrella of the EFBWW. These have led to the drafting of a joint agreement project for the future EWC of the new group.

## Thematic factsheet 4 - Transnational character

### Theory

Understanding what a transnational character involves is crucial as Directive 2009/38/EC **restricts the competence of EWCs to transnational issues**: *"the competence and scope of action of a European Works Council must be distinct from that of national representative bodies and must be limited to transnational matters"* (recital 15).

The definition of this notion involves a patchwork of various aspects of the Directive:

- in the first instance, Article 1.4: *"Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States"*;
- *"Appropriate provisions must be adopted to ensure that the employees of ... undertakings or ... groups of undertakings are properly informed and consulted when **decisions which affect them are taken in a Member State other than that in which they are employed**"* (recital 12);
- *"The transnational character of a matter should be determined by taking account of both the **scope of its potential effects**, and the **level of management** and representation that it involves. For this purpose, matters which concern **the entire undertaking or group or at least two Member States** are considered to be transnational. These include **matters which, regardless of the number of Member States involved**, are of importance for the European workforce in terms of the scope of their potential effects or which involve transfers of activities between Member States"* (recital 16).



### Key points

- **Regardless of the nationality of the company that is exercising control, it is classified as transnational based on any of the following three criteria: the scope of the potential effects of a decision; the number of countries involved; and the level of decision-making (central management, or management that is not the management of the country where the employees in question are working).**
- **The potential effects may or may not be negative for the employees involved**

## Practice

The concept of a transnational character can be **defined** using a negative definition, namely to describe any decisions that affect the employees of a country but that are not taken by the national management team and any issues or decisions for which only the national level is not relevant.

As an example, we can cite some provisions from the standard rules set in Directive 2001/86/EC supplementing the Statute for a European company: *"The competence of the representative body shall be limited to questions which concern the SE itself and any of its subsidiaries or establishments situated in another Member State or which exceed the powers of the decision-making organs in a single Member State"*.

**The subsidiary requirements** give as examples of standard topics forming the subject-matter for information *"the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings"*, and for consultation in particular *"the situation and probable trend of employment [and] investments"*. The content, scope, level and period covered by such information is one of the key issues for the EWC.

Transnational companies **detail Group policies or strategies** in their communications and reports (e.g. financial and sustainable development reports), which by their very nature are transnational and may have a major impact on a large number of employees. While the implementation of these policies may be local, the respective decisions and frameworks depend on the Group:

- an innovation, diversification or internationalisation strategy;
- a cost-cutting or cost-control policy;
- social policy, often focusing on health and safety, and also issues such as diversity and training and even subcontracting (a purchasing policy, a code of conduct).

The implementation of these strategies may involve major changes and decisions resulting from exceptional circumstances and consultation: *"substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies"*.

## Practice (continued)

Some decisions taken as part of the Group's strategy **may affect employees in one country at a time. Nevertheless, they will still be a transnational issue.** For example:

- Any outsourcing or reorganisation of activities that is portrayed as a locally relevant decision but which responds to a new management orientation for the Group (e.g. British Airways' decision to transfer customer services to Vienna);
- staggered deployment of a new IT system (e.g. SAP).

**An EWC agreement's content is important for defining the scope of transnational issues.**

- Some agreements aim to broaden the scope. For example, the Chèque Déjeuner agreement states: *"The representative bodies of local staff have the option of asking the European Works Council to give its view on local affairs where these local affairs concern issues relating to social dialogue and/or basic rights regarding employees' representation. This request must be documented at a meeting of the relevant local body."*
- However, other agreements may limit it. For example, some agreements exclude subjects (e.g. Holcim.); it is better to have the broadest possible definition.



Ensure that the definition of "transnational character" in the agreement is not limited to simply referring to there being more than one country involved but instead becomes broader than that, in line with the spirit of the Directive.

Read the public documents published by the management of the relevant undertaking so as to understand the issues arising from the Group's strategy.

Disseminate information among the EWC's members, including informal information, to identify any changes or policies common to different countries.

## Thematic factsheet 5 - Restructuring

### Theory

Directive 2009/38/EC does not explicitly use the word "restructuring". However, this type of situation (regardless of whether it consists of a closure, a relocation, outsourcing, an acquisition or a merger) is covered by the notion of **"exceptional circumstances or decisions affecting the employees' interests ..., particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies ..."** (subsidiary requirement 3 to Article 7 – stated in Annex 1). This means that restructuring operations and their effects fall within the field of responsibility of EWCs: *"The information of the European Works Council shall relate in particular to the structure, economic and financial situation, probable development and production and sales of the Community-scale undertaking or group of undertakings. The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments, and substantial changes concerning organisation, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies"* (subsidiary requirement 1a to Article 7 – stated in Annex 1).

Furthermore, in 2013 the European Commission published an EU Quality Framework for **anticipation of change and restructuring**. It is worth pointing out that there it mentions that *"[e]mployees' representatives, including through EWCs, are vital partners of company management in anticipating and managing the development of jobs and skills needs and in conducting particular restructuring operations"*.



#### Key points

- **The EWC is responsible for addressing restructuring issues, which may be of various kinds.**
- **The European Commission promotes the anticipation of change and the management of restructuring, in particular through the EWCs.**



## Practice

The EWCs' significance is often measured on the basis of what happens when there is some form of restructuring. This makes information and consultation in exceptional circumstances (a notion which includes restructuring) a **driver for action**.

As a result, one of the EWC members' main tasks is to ensure that they receive information in advance and are consulted in good time so that they can examine the relevance of strategic decisions and socio-economic alternatives to safeguard jobs and careers. However, in practice when there are restructuring plans, all too often the EWCs' role is reduced to simply being expected to rubber-stamp decisions that have already been made, potentially leading to questions arising about whether they are of any use.

**Here are a few common difficulties EWCs face when trying to play their part in the anticipation and management of restructuring operations:**

- The issue is kept off the agenda because an employer considers the restructuring a purely national matter.
- Another pretext that may be used as justification for not including restructuring operations among the discussion topics for an EWC meeting is the confidentiality of the relevant information.
- News of restructuring measures reaches an EWC too late, if at all. This very much limits the ability of such bodies to have an influence on the restructuring.
- Similarly, national alliances may put a brake on the functioning of an EWC. In the face of major restructuring plans or, in direct contrast to what happens in the case of capturing investments, everybody may be tempted to retreat into their shell to try to ensure an advantage for their country's sites. Furthermore, in some instances, central management make use of this situation to divide and weaken this body.

**The following items may help you as part of an EWC to anticipate certain restructuring operations:**

- Develop your own warning system by liaising with representatives of the relevant national/local bodies, checking up on the truth of rumours and consulting sources outside the company, such as EWC coordinators. This may help you identify transnational trends and anticipate the EWC's information request.
- Moreover, companies are increasingly finding themselves facing a steady process of transformation and change. In many cases, the operational choices involved (for example, introducing a new piece of software and making the organisation of work more flexible) have an impact on their staff's working conditions. In addition, they may directly and indirectly affect the operations of other sites in other countries.
- The quality of the 'standard' information procedure regarding the company's situation and its evolution may allow major changes to be anticipated.
- Don't hesitate to request a special meeting to ask for information. Don't wait for the employer to contact you to call such a meeting.

**Below you will find some examples of indications that may help you in anticipating restructuring operations:**

- Market downturn, drop in sales and/or results of Group entities
- Persistent debt, falling share (for stock listed companies)
- Announcement of cost-saving plans, implementation of new tools (in particular IT systems)
- Restructuring and/or sales & transfers amongst competitors



## Practice (continued)

**The information and consultation procedure may be adjusted depending on the scale and complexity of the restructuring plans,** affecting in particular the planning and quality of the information procedure, with a view to:

- understanding the reasons behind the restructuring, how it is going to happen, its impact on employment and how collective redundancies are going to be handled and its effects on working conditions and even occupational health and safety;
- making consultation useful;
- making coordination with information and consultation of national bodies useful (see the example of Tenneco below).

**The coordinator may assist in this process, which may include:**

- calling on the services of an external expert, depending on the issues involved;
- visiting the affected sites, as for example provided for in Eiffage's EWC agreement: *"Subject to agreement between the members of the select committee and the Chairman of the Eiffage Group, a representative designated by the select committee may visit the sites to gather information about the relevant operation";*
- a post-restructuring evaluation of how the restructuring operation was managed and its effects.



### An example of case law

**Spain:** A decision to undertake a restructuring operation at **Tenneco** led to an information and consultation procedure being launched nationally (with a view to bargaining negotiations) and at European level (**Belgium-based European Works Council**). The Tenneco employees' representatives, supported by the EWC, decided to call on the services of an expert in line with the provisions of the EU Directive. Although the resulting expert's report envisaged a number of alternative scenarios to the closure of the company, the management refused to engage in social dialogue. In the face of the management's intransigence, in January 2014 the **trade union representatives of USO, CCOO, UGT and the ITUC decided to bring the case before the competent court in Asturias** (Spain) in a bid to have the announced redundancies overturned. In its judgement, the court declared the redundancies on the Tenneco site null and void. The judge based his ruling on **the lack of negotiation in good faith** on the part of the management, who had at no point during the consultation meetings looked at alternative solutions to the closure, as recommended by the relevant expert.



The information procedures and the exchanges between members are tools that can be used for anticipating restructuring operations.

The quality of the information and consultation procedure is crucial to the usefulness of any consultation.

Adjustments may need to be made to the information and consultation procedure depending on the scale and complexity of the restructuring operation, by means of an agreement, for example.

## Thematic factsheet 6 - Mergers & acquisitions

### Theory

Mergers and acquisitions involving Community-scale undertakings or groups of undertakings are transnational by definition. The subsidiary requirements of **Directive 2009/38/EC list mergers among the topics on which EWCs have to be informed and consulted**. In view of the confidentiality-related and regulatory constraints on listed companies, acquisitions do not systematically have to be subjected to an information and consultation procedure before the decision to proceed has been taken, but rather only when the acquisition has been announced (and before the takeover has effectively taken place).

If a non-Community-scale undertaking or group of undertakings is involved in the merger or acquisition, the EWC of the Community-scale undertaking must assess what impact the operation might have at the transnational level.

Article 13 of the Directive explains that where the structure of the undertaking changes significantly, negotiations on the adoption of a **new EWC agreement** must be initiated *"either in the absence of provisions established by the agreements in force or in the event of conflicts between the relevant provisions of two or more applicable agreements"*.

The transactions in question involve the sale of shares of ownership in an undertaking. The European Commission, maintaining that workers' legal position vis-à-vis their employer remains unchanged, does not include this type of sale in the scope of Directive 2001/23/EC on transfers of undertakings. By contrast, these share sale transactions do have to be subjected to appropriate information and consultation procedures under the provisions of Directive 2002/14/EC and in accordance with the provisions set out by the Member States.



#### Key points

- ***Transnational mergers and acquisitions must be subjected to an information and consultation procedure by the EWCs concerned. Like acquisitions, they can also lead to the renegotiation of an EWC agreement.***
- ***The information and consultation procedure needs to be tailored to the complexity and scale of the merger or acquisition if the agreement permits this.***

## Practice

A merger or acquisition can be a lengthy, complex transaction. **From the regulatory viewpoint, the process may differ depending on the following:**

- Whether the company is or is not listed.
  - Is it a private transaction? This is the case if, for example, the acquired undertaking is not listed, if the investment fund resells its shares in LBO exits, or if some of the group's activities are sold off. These types of transaction necessitate specific information procedures with respect to the sale and choice of buyer.
  - Does the acquisition need to be approved not only by any reference shareholders, but also by a majority of the shareholders? Likewise, the announcement of a public bid or the acquisition of a controlling interest may trigger the imposition of specific procedures by the market authorities (as with the Lafarge-Holcim merger, for example).
- Whether the transaction involves concentration.
  - Is it an instance of Community-scale concentration, i.e. a transaction involving large-scale undertakings (with an overall global turnover in excess of €5 billion, with the turnover generated individually in the Community by at least two of the undertakings concerned exceeding €250 million)?
  - A Community-scale concentration cannot take place before being announced and declared compatible with the Common Market. The duration of the procedure with respect to the authorities will depend on the undertakings' competitive positions: 25 to 35 working days following the announcement in the most straightforward cases, but a deadline that can be extended by 90 to 125 days in the most complicated cases.
  - In this scenario, the authorities can impose sales. The consultation procedure will then cover the transfer of assets and choice of buyer. A meeting with the European Commission's DG Competition may prove useful.

The EWC's information and consultation procedure must be **tailored to the applicable regulatory procedures and agendas**, which may stipulate different information and consultation times.

It must also **take account of the information and consultation requirements of the undertakings involved in the merger or acquisition** – especially companies that head up groups – which may differ from country to country.

The entire information and consultation procedure may be the subject of **a specific agreement** (e.g. as with the Lafarge-Holcim merger), including the calendar of the operation and of the EWC, as well as its means (of which resorting to an external expert).

## Practice (continued)

**Another issue associated with the information and consultation procedure can be the anticipation of transformations affecting the undertakings involved in the merger or acquisition.** If such transformations take place after the merger or acquisition and may trigger consultations, their anticipation should aim to perform *"an in-depth assessment of the possible impact"* of the transaction and avert the risks associated with it, primarily by analysing the merging entities' motivations to go ahead with the operation in question. For example:

- Restructuring of the Groups' headquarters and support functions (R&D, technical services) and changes in their modes of organisation (per region, per activity, etc.) prompting job losses. Such measures may also be implemented in the countries or areas where the two groups in question are active.  
If these changes are made after the merger has taken place, undertakings may prepare for them in advance or launch them when the transaction is deemed irreversible. Such restructuring measures directly linked to the merger must be subject to an information and consultation procedure by the EWCs concerned.
- The possible reorganisation of activities in various countries in keeping with the new strategy.
- Potential mergers between companies belonging to the two groups where the associated legal reorganisation can impact on workers' status.
- Potential sales and the social conditions associated with them.

A merger or acquisition induces changes in both policy and social dialogue. **Analysing corporate practices** can prove useful for anticipating these developments and formulating demands. It can also entail adapting or renegotiating an EWC agreement. These negotiations can be prepared in advance under the aegis of the EFBWW at meetings for the members of the existing EWCs.

This proactive approach guided **the negotiation of the agreement on the method** of information and consultation in connection with the Lafarge-Holcim merger. In addition to the regulatory considerations that determined the speed of this procedure, an analysis of the issues involved constituted an entirely separate strand of the consultations held. Above all, it enabled regular meetings to take place between the members of the two EWCs and preparations to be made for the future negotiation of the new group's EWC agreement.



Make sure that you understand the merger or acquisition procedure, its timetable, any regulatory requirements and the information and consultation procedures at both the European and national levels in advance.

Adopt a proactive approach by adapting the information and consultation procedure accordingly and by making sure it covers any issues that really matter to workers and taking on board the relevant regulatory aspects.

## Thematic factsheet 7 - Interaction between EWCs and national bodies

### Theory

Within a transnational company, **the EWC is the body that is at the heart of potential cooperation at national/local level** owing to its information and consultation rights. The Directive is thus intended to *"support and complement the action taken by Member States in the field of information and consultation of employees"* (recital 9).

One of the aims of the recast of the Directive in 2009 was to **"improve the operational and hierarchical links between the national and European levels"**. The 1994 Directive did not contain provisions on the priority to be given or not given to the EWC over national bodies (and vice versa). The text of the 2009 Directive states that *"the competence and scope of action of a European Works Council must be differentiated from that of national representative bodies and must be limited to transnational matters"* (recital 15). Consequently, *"[i]t is necessary to clarify the concepts of information and consultation of employees, [...] with the triple objective of reinforcing the effectiveness of the dialogue at transnational level, permitting suitable linkage between the national and transnational levels of the dialogue and ensuring the legal certainty required for the application of this Directive"* (recital 21).

In terms of clarifying the links between the levels, **the Directive nonetheless refers to the stipulations in the EWC agreements**: *"Such agreements must lay down the arrangements for linking the national and transnational levels of information and consultation of employees appropriate for the particular conditions of the undertaking or group of undertakings"* (recital 29). **"If there are no agreements on this subject and where decisions likely to lead to substantial changes in work organisation or contractual relations are envisaged, the process must start in parallel at both national and European level in such a way that it respects the competences and areas of action of the representation bodies"** (recital 37). Consequently, linkage between the different levels of representation bodies (EWC and national) is necessary.



### Key points

- As a general principle, the information and consultation procedures launched within the EWC and the national representation bodies must be coordinated without prejudice to each other's competence and scope of action.
- The 2009 Directive states that the linkage between the procedures at European and national levels will be established in the negotiated agreement. Failing an agreement, the information and consultation procedures must be run at both levels.
- If no mechanism is stipulated in the agreement setting up the EWC, the applicable law is, in principle, the law of the country in which the registered office of the company is located.

## Practice

The issue of the linkage between the different levels of representation bodies is one of the **recurring problems** affecting the day-to-day operation of EWCs. These can be grouped together under three main topics:

- Firstly, **the Directive does not stipulate** the general linkage between the information and consultation procedures at local and European level. Consequently, such stipulations must be established in the EWC agreement. However, according to the European Trade Union Institute (ETUI), only 10% of EWCs and Works Councils of European companies (SEs) have agreements that contain rules on the respective information and consultation prerogatives of the EWC and the national bodies. In practice, case studies show that *"the smooth linkage between the various levels of employee representation bodies remains a challenge and depends more on the individual situation than on general principles"* (Astrees, 2009).
- In addition, although the **benefits of the smooth coordination of information** between the different levels of representation and the EWC have been amply demonstrated (e.g. validation or confirmation of the information received at the various levels, obtaining additional information), **actually ensuring that this happens in practice is not always easy**, except in exceptional circumstances.
- This is particularly difficult in the case of **consultation procedures** within different geographical scopes. For example, there may not be a shared desire for the EWC and the national bodies to work together (e.g. the WC may wish to manage matters on its own without any interference from the EWC) and a coordinated strategy can be difficult to establish (e.g. difficulty in identifying drivers of action at each level of representation).

An analysis of the interaction between the different levels thus begs **two underlying questions**: the legal question and the question of coordination. For example, in the case of restructuring or a major project:

- Should the transnational body or the competent national representation bodies be consulted first as a matter of priority (legal question)?
- How can it be ensured that the EWC and the national bodies work together in a complementary and coherent fashion with a view to finding common solutions (coordination question)?

Consequently, **in practice, there are two points to watch**:

### 1. The legal provisions established in your EWC agreement

- A high-quality agreement will facilitate best practices in this area. In terms of the EWC agreement, ensure that the following questions are clarified:
  - The role of the EWC: e.g. is the opinion of the EWC required (or not?)



## Practice (continued)

- The chronological order in which the EWC and the national bodies are informed and consulted? Or should they be informed and consulted in parallel?
- If no provisions are stipulated in the EWC agreement, the national law governing the agreement will apply. However, national legislations on this issue may differ. In a 2015 study, Eurofound makes a distinction between four types of national systems as regards the order in which the different levels of representation bodies are informed/consulted. Make sure you check the legislation (and any amendments) that applies to your EWC:
  - at both levels, without any indication of the linkage between the two (e.g. in France);
  - at both levels, within a reasonable deadline (e.g. in the United Kingdom) or in a coordinated manner (e.g. in Italy), but without any precise definition of the linkage between the two;
  - in parallel (e.g. in Belgium) or as close as possible to a parallel procedure (e.g. in the Netherlands);
  - at the latest in parallel, suggesting that ideally one procedure should precede the other (e.g. in Germany)

## 2. Coordination at the various levels of representation bodies

- Rather than the quality of the initial agreement, it is what those sitting on the EWC decide to do and are actually able to do that constitute a benchmark of the quality of the EWC's activities. Optimal coordination of the work of the bodies at the various levels of geographical competence is of added value in that it provides information at a transactional level, which can be used to enhance knowledge so as to take action at national level (and vice versa).
  - As regards the linkage between the different stakeholders, 76% of EWCs and Works Councils of European companies (SEs) make a commitment to communicate with the national/local levels on the EWC's work. For example, an online platform for exchanging information between the EWC and the other bodies could be set up. The aim is for the various bodies to share their information.

Setting up national platforms of workers' representation may act as leverage for articulating the different levels of representation.

In a bid to foster further information exchanges, other actions can be undertaken. For example:

  - inviting one or more representatives of national/local bodies to EWC meetings;
  - one or more EWC members can attend site visits;
  - cooperation between the EWC and the Supervisory Board;
  - cooperation with the Members of the Board of Administration; ...

## Practice (continued)

- In terms of when the information is shared between the bodies, it could be worthwhile defining a procedure that makes a distinction between:
  - Information of a more general nature (e.g. relating to annual meetings).
  - Information relating to specific projects, such as restructuring projects. Here, a case-by-case approach could be adopted, whereby the order of priority between the bodies is established by consensus at the start of the process.
- Interaction between the EWC and the national bodies also depends on the nature of the industrial relations within the company and how the social partners perceive the role of the EWC. Consequently, it is a good idea for representatives to exchange opinions on these issues.
  - For example, at a training course or preparatory meeting, set some time aside to present, discuss and understand the staff representation models in the various countries and/or the deep-rooted motivations of other staff representatives on the EWC.



## A few examples of ideas for practical tools

- Foster **regular communication** on the situations in the various countries, e.g. design a common report template to be filled in by each country; designate a representative from the different sites or companies to be in charge of liaising with the EWC.
- Within the framework of an information/consultation procedure relating to an exceptional circumstance, reach **an agreement** on when the various bodies are to be informed and consulted e.g. the Lafarge - Holcim merger.
- **Support local actions** in line with their needs, e.g. presence on the ground of members of the EWC Bureau of Eiffage at the time of the various site closures; publication of a statement by the EWC of Imerys in support of the local sites.
- Create **national platforms** in order to foster communication between the various bodies.
- Use free **online translation** software to translate e-mails.
- ...



## Thematic factsheet 8 - Interaction between members of the EWC

### Theory

According to the legal texts, interaction between members of the EWC is part of the operation of the body. "[...], it is for the representatives of employees and the management of the undertaking or the group's controlling undertaking to determine by agreement the nature, composition, the function, mode of operation, procedures and financial resources of European Works Councils [...]" (recital 19). Consequently, **it is the EWC agreement that establishes the arrangements** under which the employees' representatives can meet to exercise their rights to information and consultation: the venue, frequency and duration of the meetings (e.g. number of ordinary, extraordinary and preparatory meetings, as well as meetings of the select committee (bureau)). It is thus during the negotiations that budgets can be set in order to enable staff representatives, the secretary and the select committee, where applicable, to prepare for the meetings and liaise with each other (e.g. days off work to perform EWC tasks, interpretation, budget for travel, study, secretarial costs, etc.). In particular, central management bears the cost, unless otherwise agreed, of organising the meetings and the interpretation, as well as the hotel and travel costs of the members of the European Works Council and the select committee.

**Failing this, subsidiary requirements established by the Directive shall apply.** They determine the composition, operation and minimum functions of the EWC. In some countries, such as France, the national Labour Code allows for an EWC to adopt its **rules of procedure**, which establish its mode of operation. These rules must not contain any provisions that violate the conditions of the subsidiary requirements.



#### Key points

- **Representatives interact at two levels: at meetings and outside meetings.**
- **The legal texts only stipulate that central management will bear the EWC meeting costs (salaries, travel and hotel costs, interpretation, etc.). However, no provision is made for the operation of the EWC.**
- **The EWC agreement can include provisions relating to the operation of the EWC.**

## Practice

In terms of interaction between the representative members of the EWC, we have **not identified any rules or similarities, but instead a range of situations**: particularly based on the customs of the country concerned.

- Firstly, the **composition of the Council** depends to a great extent on the social relations model in the country whose laws govern the agreement setting up the EWC (e.g. who chairs the EWC); as well as on the rules for designating the representatives (e.g. by the trade unions, without a trade union affiliation, but selected from staff associations, etc.). Even though the new Directive emphasises the important role played by the trade unions, the directives do not stipulate whether the staff representatives must be elected by staff, designated by the trade unions or self-appointed. In terms of interaction, a member of an EWC may well interact and liaise with other members who may not share the same background and/or trade union affinities. This can **hamper interaction** between members. However, it is **important to try to identify the expectations, strengths and skills of each member in order to set aside their differences** (in terms of background, culture, language, etc.) **and work as a team to achieve the joint objectives of the members of the body**. Consequently, it is important to spend time getting to know and exchanging views with each other - both during and outside the meetings (at training courses, for example). Defining one (or more) objectives collectively, as well as the roadmap for achieving them, is essential.
- In terms of **meetings**, their number and frequency obviously have an impact on the extent and type of interaction between the members. During negotiations with management, it is thus preferable not to limit meetings to a single ordinary meeting each year. **A minimum of two ordinary meetings**, which are held over several days, is thus preferable. Similarly, make sure that you have **meetings between members before (preparatory) and after (debriefing) the meeting proper**.
- In practice, the most successful EWC's are those that have **a select committee with the resources** to allow for the members to meet regularly outside the plenary meetings, to commission the support of experts, to hold preparatory meetings, to meet the employer, and so on. Make sure, therefore, that the EWC has the financial and material resources needed for members to perform their tasks properly. Some EWCs have a budget, while others prefer not to set any limits.
- **Outside the meetings**, many EWC members make use of new means of communication. Do not hesitate to use these in order to stay in touch outside the meetings. Some EWCs have a dedicated platform for exchanging information.



### Some tips for facilitating interaction between members

- Define your common objectives: in respect of the EWC and its mandate, in terms of an information or consultation procedure, for a meeting, etc.
- Take time to understand the cultural differences between the members.
- Talk to fellow members in order to identify each member's skills and how they can contribute to achieving the objectives set.
- Attend training courses together.
- Organise site visits in order to foster discussion on activity and businesses (and the shared problems).
- During EWC meetings, make sure to dispose of interpreters and documents translated in each language.
- Have access to translation resources to foster written communication amongst members.
- Do not hesitate to attend language courses to facilitate informal exchanges;
- ...



### Check list for successful meetings

- Set the agenda (if provided for in your agreement).
- Limit the number of items on the agenda.
- Ask for external guests to be invited to the EWC meetings to speak on a specific topic (e.g., experts, national representatives, etc.).
- Make sure that management sends out the documents in sufficient time before the meeting.
- Read with a critical eye all of the documents circulated in advance.
- At a preparatory meeting, define your common objective for the plenary meeting.
- Make sure that each country (representative) has an opportunity to take the floor.
- You may also want to ask some members to speak at the meeting or to provide information.
- Make sure that you have interpretation for all of the languages spoken.
- The same applies to the translation of the documents that are circulated to you by management.
- Prepare minutes for the meeting.
- Organise a debriefing meeting in order to assess any new information and to define official positions.
- Notify these positions to the site and/or worker representative bodies.

## Thematic factsheet 9 - Training

### Theory

Directive 2009/38/EC stipulates that training is a means of enhancing the usefulness of European Works Councils: *“in order to **perform their representative role fully** and to ensure that the European Works Council is useful, employees’ representatives must report to the employees whom they represent and must be able **to receive the training they require**”* (recital 33).

The right to training is recognised in the Directive: *“in so far as this is necessary for the exercise of their representative duties in an international environment, the members of the special negotiating body and of the European Works Council shall be provided with training **without loss of wages**”* (Article 10.4).

However, the **text of the Directive is vague** in terms of the arrangements for delivering this right. According to the spirit of the Directive, all training useful to the functioning of the EWC (e.g. economic analysis, English language, health & safety at work prevention, etc.) is possible.

It is therefore the agreements negotiated by the parties and **practical implementation of these agreements** that will determine the extent of the right and ensure that the training is useful to the members in terms of assisting them to operate within the EWC and make full use of the EWC’s powers in respect of management (information and consultation, relations with the other levels of employee representation, etc.)



#### Key points

- ***Training is a right for all members of the Special Negotiating Body (SNB) and the EWC***
- ***The cost of training is borne by management***
- ***The content of the training is, in principle, set in conjunction with the EWC***
- ***The arrangements are determined through negotiation (agreements and practical implementation of the agreements)***

## Practice

**Training is a tool** to help the EWC use its powers based on a trade union perspective:

- One of the main objectives of training is to enable the members of the EWC to take ownership of the rights and resources they need to perform their tasks.
- Training provides a chance for members of the EWC to not only acquire new skills, but also get to know their fellow members and work together. However, EWCs lack time and their members do not know each other.
- Training is not neutral from a trade union perspective: not all training bodies convey the same message on a given topic, including a technical topic; policy choices underpin technical issues.

Two questions must be asked when determining the arrangements for implementing this right:

- What are the EWC's training needs now and in the future in light of its strategy and objectives as a body? For EWCs that have recently been set up, it is also a means of showing members of the EWC that the latter can be a driver of strategy (how can the EWC be developed into an operational tool?).
- How can this right be used to improve how the body operates in general?

### Training for whom?

Some agreements establish, in practice, different training rights for full members and replacement members. It is preferable for both of these groups to benefit from the same rights in terms of days of training and the training content and for them to be trained together. Training is often the only opportunity for full members and replacement members to work together. They can make use of the training sessions to discuss topics other than training during breaks or lunch, as well as develop strategies and discuss practical implementation of the theory learnt during the course.

### What training topics?

They should be chosen in terms of their usefulness for the operation of the EWC, as well as its strategy and objectives. The training needs therefore differ from one EWC to the next (number of years served on the EWC, for example) and from one moment in the lifespan of the body to the next. It is therefore better not to be too prescriptive in the agreement as regards the training topics.

There should be a specific focus on language training (most often English). For the council to operate effectively, it is important to know the other members' languages, but it is impossible for all members to be familiar with all the languages represented within the EWC.

Instead of aiming for an in-depth training in English language for every EWC member, it is better to aim for translation and interpreting. Nevertheless, a basic training in English might be beneficial to fostering informal exchanges amongst members (at times when interpreters are not present).

**Practice (continued)****The choice of training body**

Although the choice of training body may seem not to matter, it is important in terms of trade union issues. That is why, prior to choosing the training body, it is better to ask the trade union coordinator if there is a training body he/she can recommend (for example ETUI, organisations that have been accredited by the European trade union federations, etc.). In the event that management insists on having an accredited body, make sure you check the content of the training that will be conveyed.

Subsidiary question: Should the trade union experience gained in the EWC be accredited? As it is difficult in some countries and in some companies to get people to sit on European bodies, it could be a good idea to accredit the experience gained from their work on such bodies: *“The Management (of Chèque Déjeuner) intends to acknowledge the skills acquired by the employees as members of a European body. It thus pledges to co-develop, in conjunction with the representatives of the European Works Council, a system for evaluating and recognising these skills”.*



- Decide on a yearly basis **the topics** where there is a training need and which full **members and replacement members** require training
- Decide on **the number of days** of training needed (make sure you allow for travel time, as well as training time), when the training needs to be held and how often
- Avoid holding the training course back-to-back with an EWC meeting, with the training risks taking a back seat. It is better for the training to be run as a stand-alone event.
- Ask the **coordinator** which training bodies have expertise in the relevant area
- Set time aside at the end of the training course **to take stock of the course**, put into perspective the skills acquired, their usefulness and how they can be applied to the work within the EWC

## Thematic factsheet 10 - Trade union coordinator

### Theory

In Directive 2009/38/EC, there is no mention **of trade union coordinators** as such; however, in this area - particularly in certain sectors, such as within the EFBWW - actual practice is what counts: *“for the purpose of the negotiations, the special negotiating body may request assistance from **experts of its choice which can include representatives of competent recognised Community-level trade union organisations**. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body”* (Article 5.4).

The 2009 Directive thus recognises the role of trade union organisations in implementing EWC agreements and their status as experts. Reference is made here to trade union organisations in the broad sense: this may include the role of the trade union coordinator as such or the intervention of a representative of a European trade union federation, for example.

The subsidiary requirements emphasise the importance of expertise to the operation of the EWC or the select committee: *“the European Works Council or the select committee may be assisted by experts of its choice, in so far as this is necessary for it to carry out its tasks.”* (Annex 1, no. 5). The Directive gives Member States the responsibility of determining the budget for hiring experts; they may limit to one expert the number of experts to be paid for by management.

The EFBWW has drafted a document on the trade union coordinator, entitled *“The role of trade union coordinators in the EWC and the role of national organisations in this area”*.



#### Key points

- **Make sure that the EWC does not involve the participation of several European trade union federations. If so, there is one coordinator per trade union federation.**
- **His/her presence and function must be negotiated.**

## Practice

In practice, the trade union coordinator is a trade union member mandated by the European trade union federation **to assist with the smooth operation of an EWC and to act as an intermediary between the EWC and the European trade union federation**. He/she is not an employee of the company for which he/she is the European Works Council coordinator. The cost of the coordinator is borne by the company's management in accordance with the provisions established in the agreement. He/she plays an advisory role. His/her presence is not compulsory and must be negotiated. This system is well established within the EFBWW, but some companies are still reluctant to accept it.

The role of the trade union coordinator is very important, as the effectiveness of the EWC depends on its unity and the organisation of its members. **In addition to his/her knowledge of the workings and functions of the EWC, the coordinator's main tasks are to:**

- coordinate the positions of the members of the EWC so as to transcend national positions;
- provide the EWC with a working method;
- act as an intermediary between the European trade union organisations and the members of the EWC;
- drive the trade union network; establish and maintain the strong relation with the national trade unions

The **trade union coordinator can get involved throughout the life cycle of the EWC**: establishing the SNB to remind participants of the law and flag up best practices; training sessions to put across the trade union perspective; drafting a motion to remind local management of the content of the agreement and the Directive in terms of the EWC members' right to participate in the work of the body, for example, and so forth. It is therefore useful to have him/her attend the various EWC meetings and training courses.



**Practice that has been fairly well developed by the EFBWW**, which has around thirty EWCs monitored by its network of coordinators



## Thematic factsheet 11 - External expert

### Theory

Directive 2009/38/EC does not refer to external experts or trade union coordinators. It only mentions experts (experts that assist in negotiations or economic or trade union experts). The Directive stipulates: *“for the purpose of the negotiations, the special negotiating body may request assistance from experts of its choice which can include representatives of competent recognised Community-level trade union organisations. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body”* (Article 5.4).

The external expert is there to provide the EWC with technical expertise on **specific topics**: the company’s financial situation, working conditions, health and safety, explanations of legislation relating to restructuring, and so on. The roles of the external expert and the trade union coordinator are therefore complementary.

External experts are hired when **a need** is identified: *“the European Works Council or the select committee may be assisted by experts of its choice, in so far as this is necessary for it to carry out its tasks”* (Annex 1, no. 5).

The Directive gives Member States the responsibility of determining the **budgetary implications** of using experts; they may limit to one expert the number of experts to be paid for by management.



#### Key points

- **Tool designed to assist the EWC. Their presence and function within the EWC must be negotiated**
- **Complements the role played by the trade union coordinator**
- **National legislation may limit the financing of experts to one, but management may not set such limits**

## Practice

Experts are a **technical ‘tool’**. **Their role must be tailored to the needs of the body and the topics to be addressed.** They may provide technical expertise on a specific topic (strategy, economic and financial situation of the company, employment policy, health and safety, etc.), conduct comparative studies of various European countries, etc. They cannot act in lieu of the trade union coordinator or the EWC. Their role must be seen as being complementary to that of the trade union coordinator.

Resorting to an external expert may be **useful**:

- With regards to the ordinary functioning of the EWC: to better understand the company information and better anticipate evolutions
- During consultation on exceptional circumstances (restructuring, transfers, ...): to better comprehend the project and the consequences for workers.

However, the Directive stipulates that Member States may decide to limit to one the number of experts to be paid for by management. Therefore, before drafting the agreement, check carefully the **provisions of the law transposing the Directive in the country under whose jurisdiction the EWC falls**. If the text transposing the Directive does not limit the financing of experts to one, make provision in the agreement for a trade union coordinator and external experts. If the text transposing the Directive into national law does not make provision for external experts, negotiate their presence within the body by arguing that their technical contribution will enhance the effectiveness of the EWC in accordance with the spirit of the subsidiary requirements presented in annex to the Directive.

**The agreement can make provision for the following:**

- The method of designating the expert: designation by the EWC with management merely being informed of the Council's choice, joint designation by the EWC and management; possible role of the select committee. Different types of external experts may exist from one country to another. Get in touch with your trade union coordinator to find out whose technical expertise might meet your needs.
- His/her function: topics (pre-defined, on a needs basis, etc.), events (SNB, preparatory, plenary and select committee meetings, etc.), time allowed to complete expert assessment, time allowed for management to submit documents to the expert, time needed for translation and deadline for circulating the documents to the members of the EWC, financing, and so on.



Make sure the presence of an external expert is recognised as a right in your agreement. To be included in the agreement: method of designation and financing, as well as the conditions under which the expert can be used and the conditions under which he/she conducts his/her tasks.

## Thematic factsheet 12 - Relations with workers (communication)

### Theory

The 2009 Directive requires that worker representatives at the EWC notify staff of the result of information and consultation: *“In order to perform their representative role fully and to ensure that the European Works Council is useful, employees’ representatives must report to the employees whom they represent [...]»* (Paragraph 33). Moreover, another article specifies that *“[...] the members of the European Works Council shall inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure carried out in accordance with this Directive.”* (Article 10.2).

Within this framework, the circulation of information is considered to boost the efficiency of the EWC and its right to information/consultation. EWC representatives must therefore have the resources required to circulate information.



#### Key points:

- The EWC is under the obligation to notify the workers it represents of the results of the information and consultation processes.
- The need for appropriate communication tools so that information can trickle down.

### Practice

According to a 2015 ETUI study, **72% of EWC agreements specifically mention the obligation** to notify. In this case, the responsibility falls most often on the workers’ representatives, who notify the workers as a whole. However, a number of EWCs stipulate that communication is performed jointly. Also, a minority of EWCs are of the opinion that it is up to the national representative bodies to circulate the information to the workers. The results of the survey among EWC members in the EFBWW sectors show that only a **very small majority of respondents replied that they had adequate resources** to keep the workers of their group informed. One of the difficulties identified was that traditional trade union networks often limit themselves to national territory and seldom communicate at European level.

## Practice (continued)

In practice, the members of the EWC often circulate the information individually via national works councils and trade union networks, without a formal agreement.

The feedback on communication to workers therefore raises **the issue of meetings with workers, as well as that of worker feedback to the EWC**. To be useful and efficient, the EWC needs to involve workers in its operations as closely as possible. For instance, the possibility of visiting the various group sites in the various Member States is highly valued by the EWC members who took part in our survey. However, it appears to be seldom implemented by EWCs. Another valuable practice based on the Lafarge/Holcim case study is the formation of national platforms with information translated into the various languages to encourage communication with workers.



### Suggestions for concrete tools

- Ensure that the EWC agreement stipulates a responsibility to keep workers informed (Who communicates? To whom?).
- Ensure that adequate resources are available to ensure notification.
- Publish EWC information in the group newsletter distributed to all group staff (e.g. submit articles and include contact information of EWC members).
- Operate a dedicated EWC website (via the Intranet and/or accessible to the general public). Some examples of freely accessible websites:
  - <http://www.coe.eu/accueil/>
  - <http://www.egaxa.eu/en>
  - <http://www.cge-air-france-klm.com/>
  - <http://www1.deutschebahn.com/ewc-en/start/struktur>
- National platforms
- Visits to group sites (e.g. by changing the meeting venues of the select committee and/or EWC).
- A single email address to contact the EWC.

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